

Fees:

Application Fee 50.00
Abutters @ 5.00 ea
Public Advertising per ad
Total Fees

Name of Applicant: Thomas & Carolyn Ramsbotham
Address: 54 Nute Road, Madbury NH
Owner: Same as applicant
Location of property: Nute Road, Madbury Tax Map 2, Lot 19B
(street, number, subdivision & lot number)
A variance is requested from article <u>VI</u> section <u>3.C.1</u> of the zoning ordinance to permit: <u>A leach field to be installed where the seasonal high water table</u> is closer than two (2) feet to the surface of the natural ground l
Facts in support of granting the variance:
Granting the variance would not be contrary to the public interest because:
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2. If the variance were granted, the spirit of the ordinance would be observed because: See attached narrative.
3. Granting the variance would do substantial justice because: See attached narrative.
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4. If the variance were granted, the values of the surrounding properties would not be diminished because:
See attached narrative.

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A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

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See attached narrative.	
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ii. The proposed use is a reasonable one because:	
See attached narrative.	
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Address: 54 Nute Road, Madbury NH Owner: Same as applicant Location of property: Nute Road, Madbury Tax Map 2, Lot 19B (street, number, subdivision & lot number) A variance is requested from article v section 3.C of the zoning ordinance to permit: A building to be constructed less than 50' from the front boundary Facts in support of granting the variance: 1. Granting the variance would not be contrary to the public interest because: See attached narrative. 2. If the variance were granted, the spirit of the ordinance would be observed because: See attached narrative.	
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See attached narrative.	
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See attached narrative.	

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A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

See attached narrative.	
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ii. The proposed use is a reasonable one because:	
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Name of Applicant: Thomas & Carolyn Ramsbotham
Address: 54 Nute Road, Madbury NH
Owner: Same as applicant
Location of property: Nute Road, Madbury Tax Map 2, Lot 19B
(street, number, subdivision & lot number)
A variance is requested from article <u>IX</u> section <u>5.B.6</u> of the zoning ordinance to permit: <u>The alteration of the land within 50' of poorly drained soils.</u>
Facts in support of granting the variance:
1. Granting the variance would not be contrary to the public interest because:
See attached narrative.
2. If the variance were granted, the spirit of the ordinance would be observed because: See attached narrative.
3. Granting the variance would do substantial justice because:
See attached narrative.
4. If the variance were granted, the values of the surrounding properties would not be diminished because:
See attached narrative.

- 5. Unnecessary Hardship
- A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

i. No fair and substantial relationship exists between the general public purposes of the

ordinance provision and the specific application of that provision to the property because: See attached narrative. and: ii. The proposed use is a reasonable one because: See attached narrative. B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. See attached narrative. Date: 3/18/2021 march 13, 2021



Fees:

Application Fee Abutters @ 5.00 ea 50.00

Public Advertising per ad 50.00 **Total Fees**

Name of Applicant: Thomas & Carolyn Ramsbotham Address: 54 Nute Road, Madbury NH Owner: Same as applicant Location of property: Nute Road, Madbury Tax Map 2, Lot 19B (street, number, subdivision & lot number) A variance is requested from article <u>IX</u> section <u>5.A</u> of the zoning ordinance to permit: The disturbance of the 25' wet area buffer. Facts in support of granting the variance: Granting the variance would not be contrary to the **public interest** because: See attached narrative. 2. If the variance were granted, the **spirit of the ordinance** would be observed because: See attached narrative. 3. Granting the variance would do substantial justice because: See attached narrative. 4. If the variance were granted, the values of the surrounding properties would not be diminished because: See attached narrative.

5. Unnecessary Hardsh	nip	[ards]	Ha	Unnecessary	5.
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BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road Barrington, NH 03825 Phone: (603) 332-2863 Fax: (603) 335-4623 www.BerrySurveying.Com crberry@metrocast.net

March 10, 2021

Town of Madbury Zoning Board of Adjustment Attention: Chair, Matthew Bacon 13 Town Hall Road Madbury, NH 03823

Re:

Request for Variances

Thomas & Carolyn Ramsbotham

Nute Road

Tax Map 2, Lot 19B

Chairperson and Members of the Madbury Zoning Board of Adjustments,

On behalf of our client Thomas and Carolyn Ramsbotham, Berry Surveying & Engineering (BS&E) is requesting a hearing before the Madbury Zoning Board for the application of variances on existing lot of record locally known as Tax Map 2, Lot 19B

Background and General Narrative:

The subject parcel was created on November 15, 1870 and has been owned by the current owners since December of 1976. The Madbury Zoning Ordinance was established February 13, 1963 with the wetlands overlay districts and other building requirements being established well after that date. It is clear that this lot was created well before the ordinance. The total area of the lot is 10.45 acres more or less and contains land in Barrington, NH. The area within the Town of Madbury is 5.65 acres. The site contains approximately 521 feet of frontage on Nute Road.

The applicant has hired BS&E to conduct a wetlands analysis of the site and a topographic survey of the front portion of the site. The perimeter boundary was surveyed in 2007 by David Vincent of Land Surveying Services. The submitted project plans are a retracement of that boundary survey for the purposes of providing enough boundary evidence for a Zoning Board Application and a Septic Design. In October of 2020 BS&E hired Deidra Benjamin, CWS to delineate the front portion of the site for jurisdictional wetlands as well as poorly drained soils. In this case the wetlands boundary matches the poorly drained soils boundary. The topographic survey was undertaken shortly after the delineation. As is demonstrated on the plan, the site generally slopes from Nute Road to the wetland boundary. There is a small area of upland adjacent to the roadway that provides sufficient space to construct a single-family home, an allowed use in the underlying zone.

Prior to the wetland's analysis and topographic survey, BS&E conducted test holes on site on September 16, 2020 which were witnessed by the Rockingham County Conservation District. Test hole #1 found seasonal high water table at 18" deep and test hole #2 found seasonal high water table at 11", Test hole #1 is the better of the two observations however does not meet the required separation of 2' (24") found in Section 1. Sewage System and Leach Fields. However, it otherwise complies with this section whereas it is 100' from a public water body, 75' from any well, 75' from abutting dwellings, 75' from very poorly drained soils, and 50' from poorly drained soils.

Thomas & Carolyn Ramsbotham are interested in acquiring a building permit for the existing non-conforming lot of record. The ordinance allows for the use and development of non-conforming lots provided that it is for an acceptable use, allowed in the underlying zone. Single family homes are permitted in this zone. The non-conforming allowance discusses that the requirements of the remaining chapter pertaining to setbacks, yards and heights are met. In this case the developable property is constrained to a point where various setbacks cannot be met, and therefore a variance is required for those specific requirements.

The front setback requirement in the zone is 50' with a 50' structure setback requirement to poorly drained wetlands. The distance between the stonewall (front boundary) and the wetlands boundary is between 70-75 feet. Due to the fact that there is not sufficient distance between the front setback and the wetlands boundary to place a structure, we have worked to balance the placement of the structure between the two constraints. The proposed single-family house is proposed within the front setback to a point which allows for the rear of the house to be graded without direct wetlands impact. This balance allows the structure to be placed 23.85' to the closest point to the front boundary, which is approximately 35 feet from the edge of pavement on Nute Road. The structure is proposed to be 18.8' from the wetlands boundary with a small deck being proposed as close as10.77' to the wetland's boundary. Variances are needed to allow the structure and steps to be within the front 50' setback and to be within 50' of the wetland's boundary.

The project requires some filling and grading around the house. Some of this fill is required for the proposed effluent disposal area (EDA), while much of the remaining fill is needed for the installation of onsite Low Impact Development devices to help mitigate the stormwater runoff from the project site. Objects used for the purposes of water impoundment are specifically permitted within the 25' wetlands buffer, however the ancillary fill for the house and effluent disposal system requires relief.

The site was graded so that the front of the project to include all of the driveway, front portion of the house and the front portion of the garage will flow directly to a rain garden. This rain garden is proposed to have an underdrain to allow for a reduction in peak rates of flow to the wetlands as well as nutrient removal through the bio media materials. The rear of the proposed structure is proposed to be guttered and piped to a drywell systems to promote attenuation and some re-infiltration of stormflow, in an effort to reduce the peak rates of flow to the wetlands areas.

Wetlands signs are proposed along the wetland boundary to alert the future owners of the wetlands and the restriction on the use of the remainder of the parcel.

Specific Variance Request & Criteria for Approval:

- Variance to Article VI. Section 3.C.1 Proposed leach fields "No sewage system or leach field shall be installed where the seasonal high water table is closer than two (2) feet to the surface of the natural ground level".
- 1.) "Granting the variance would not be contrary to the public interest."
 - a. The public interest in this case is protection of the water table to ensure that there is good aeration and slow travel of effluent through the unsaturated zone. The state of New Hampshire requires a minimum of 2' separation between the bottom of the pipe in a leach field to the seasonal high water table. The applicants are proposing to use an Advanced Enviro Septic System. Even though the test holes did not have 2 feet to seasonal high water table, the proposed leach field will because of the required fill, and therefore the separation will be met through the construction means and methods. With the separation met, the public interest is also met.



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- 2.) "If the variance were granted, the spirt of the ordnance would be observed"
 - **a.** The proposed septic system will require NHDES approval and will have to be built to their standards. This will require the area around the leach field to be filled so that there is a minimum of 2' to the seasonal high. By doing this the spirit of the ordnance will be observed.
- 3.) "Granting the variance would do substantial justice."
 - **a.** Granting the variance will allow for the applicant to construct a single family home on an underutilized lot of record and allow for reasonable development without jeopardizing the water quality within the Town of Madbury. The benefit to the applicant far outweighs the potential impact the project will have on the water quality within the Town of Madbury, given the fact that the system will meet the state requirements and meet the 2' bed bottom separation, and therefore substantial justice is done.
- 4.) "If the variance were granted, the values of the surrounding properties would not be diminished"
 - **a.** Building a new single family home in a residential zone will only increase the value of surrounding lots.
- 5.) "Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
 - **a.** "No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:"
 - i. The property is special in that the area along Nute Road is the only buildable area for the entire parcel. Given the location of the existing wetlands, the proposed location for the leach field is the only area outside of the 50' septic buffer to wetlands. Consequently, this is the only reasonable location to conduct a test pit for the leach field and provides the largest natural separation. In this case there is no fair or substantial relationship between the ordinance and the proposed use of this specific application given the fact that the ordinance does not contemplate being able to fill the area around the leach field to gain the required 2' separation between the bottom of pipe to the seasonal high water table.
 - **b.** "The proposed use is a reasonable one:"
 - The proposal allows the development of a septic system on an existing preexisting lot of record which meets the state requirements, and is therefore reasonable.

Specific Variance Request & Criteria for Approval:

- Variance to Zoning Article V Section 3.C "Front setback of 50 feet".
- 1.) "Granting the variance would not be contrary to the public interest."
 - a. The public interest in this case is preserve the residential characteristics of the zone by setting houses back from the road a minimum of 50 feet. Granting the variance would not be contrary to the public interest because the proposal attempts to balance the remaining land area between the wetlands and the front boundary. The difference between the required setback and the proposed placement will be nearly imperceptible from those traveling down Nute Road and therefore will be congruent with other developed lots.



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- 2.) "If the variance were granted, the spirt of the ordnance would be observed"
 - a. Although the proposed house will encroach on the 50' front setback, the house is proposed to be set back as far as practical given the other constraints on the site. Due to the placement being as far back as possible the spirit of the ordinance is observed.
- 3.) "Granting the variance would do substantial justice."
 - a. Granting the variance will allow for the applicant to construct a single family home on an underutilized pre-existing lot of record and allow for reasonable development without jeopardizing the master plan of Madbury. The benefit to the applicant to allow the reasonable development well outweighs the impact on the town's ordinance and therefore substantial justice is done.
- 4.) "If the variance were granted, the values of the surrounding properties would not be diminished"
 - a. Building a new single family home in a residential zone will only increase the value of surrounding lots.
- 5.) "Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
 - a. "No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:"
 - i. The property is special in that the area along Nute Road is the only buildable area for the entire parcel. Given the location of the existing wetlands, the only buildable area for a house is within the front setback. Denial would deem the lot unbuildable which is an unnecessary hardship given the fact that the applicant has proven how the lot could be built out in a reasonable fashion.
 - b. "The proposed use is a reasonable one:"
 - i. The proposed use is a reasonable one because it allows the parcel to be reasonably developed with a use that is allowed in the zone, while maintaining the existing rural characteristics of the zone.

Specific Variance Request & Criteria for Approval:

- Variance to Zoning Article IX Section 5.B.6 "Any construction altering the surface configuration of the land including the installation of a wastewater treatment system shall be setback from the reference line of the surface water or delineation of the wet area by an amount that includes the wet area buffer as follows: Poorly drained soils, 50 feet".
- 1.) "Granting the variance would not be contrary to the public interest."
 - a. The public interest in this case is to preserve the natural wetlands. Granting the variance would not be contrary to the public interest. As part of the lot development, a residential rain garden and dry well will be constructed to treat all the impervious surface from the proposed development. Additionally, erosion and sediment control measures such as silt soxx and mulch berms will be installed to protect the wetlands from sediment during the construction process. The building setback and buffer are intended to provide a level of natural separation for the purposes of reducing flow and nutrient load into the wetlands, in this case the engineered methods employed replicate to the extent practical the functions and values of the building setback and buffer.
- 2.) "If the variance were granted, the spirt of the ordnance would be observed"
 - a. Although the proposed house will encroach on the 50' wetland setback, the spirit of the ordnance will be observed through the preservation of the existing wetlands. The purpose of the 50' buffer is to act as a level of protection to the wetlands. In this case, that 50'





buffer will be enhanced through the use of stormwater treatment systems and advanced erosion and sediment control methods. By implementing these design aspects, the existing wetlands will be protected.

- 3.) "Granting the variance would do substantial justice."
 - a. Granting the variance will not only allow the applicant to construct a single family home on the lot which is permitted in the underlying zone. The value provided to the applicant far outweighs any impact this development may have on the ordinance, whereas the applicants have proposed mitigation measures to replicate the functions and values of the setback and buffer.
- 4.) "If the variance were granted, the values of the surrounding properties would not be diminished"
 - a. Building a new single family home in a residential zone will only increase the value of surrounding lots. The installation of the rain garden and dry well will also enhance the stormwater protection and greater preserve the existing wetlands.
- 5.) "Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
 - a. "No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:"
 - i. The property is special in that the area along Nute Road is the only buildable area for the entire parcel. Given the location of the existing wetlands, the only buildable area for a house is within the 50' wetland buffer. Given that the lot was created well in advance of the ordinance, and the applicants are proposing mitigation measures to replicate the building setback, there is no fair and substantial relationship between this site and the ordinance. Denial of the variance would deem the lot unbuildable and would pose an unnecessary hardship to the applicant.
 - b. "The proposed use is a reasonable one:"
 - i. The proposed use is a reasonable one because it allows the parcel to be reasonably developed with a use that is allowed in the zone, while protecting the existing wetlands through the use of stormwater treatment systems and erosion and sediment control measures.

Specific Variance Request & Criteria for Approval:

- Variance to Zoning Article IX Section 5.A "Wet Area Buffer. Wet areas shall be protected by adjacent undisturbed, naturally vegetated, contiguous upland buffers of at least twenty-five (25) feet from the reference line of the surface water or delineation of the wet area".
- 1.) "Granting the variance would not be contrary to the public interest."
 - a. The public interest in this case is to preserve the natural wetlands. Granting the variance would not be contrary to the public interest. As part of the lot development, a residential rain garden and dry well will be constructed to treat all the impervious surface from the proposed development. Additionally, erosion and sediment control measures such as silt soxx and mulch berms will be installed to protect the wetlands from sediment during the construction process.
- 2.) "If the variance were granted, the spirt of the ordnance would be observed"
 - a. Although there will be disturbance within the 25' wet area buffer, the spirit of the ordnance will be observed through the preservation of the existing wetlands. The purpose



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of the 25' wet area buffer is to act as a level of protection to the wetlands. In this case, that 25' buffer will be enhanced through the use of stormwater treatment systems and advanced erosion and sediment control methods. By implementing these design aspects, the existing wetlands will be protected.

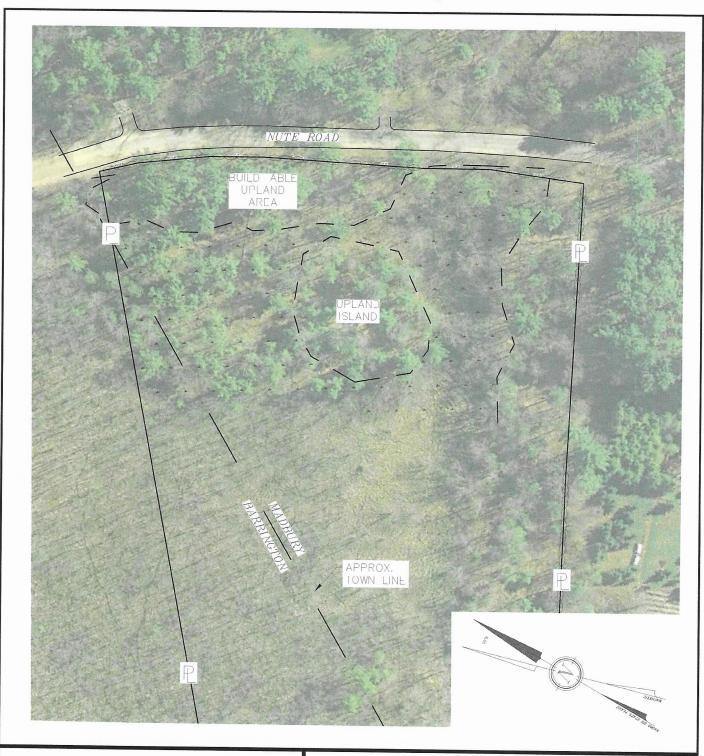
- 3.) "Granting the variance would do substantial justice."
 - a. Granting the variance will not only allow the applicant to construct a single family home on the lot but will add a level of wetland protection that was not previously there whereas much of the buildable frontage along Nute Road previously ran off directly to the wetlands areas. The proposed rain garden will now capture and treat this flow. This will do substantial justice to the applicant and the Town by allowing for reasonable development of the lot, while maintaining and protecting the high value areas.
- 4.) "If the variance were granted, the values of the surrounding properties would not be diminished"
 - a. Building a new single family home in a residential zone will only increase the value of surrounding lots. The installation of the rain garden and dry well will also enhance the stormwater protection and greater preserve the existing wetlands.
- 5.) "Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
 - a. "No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:"
 - i. The property is special in that the area along Nute Road is the only buildable area for the entire parcel. In order to develop the lot correctly, the applicant will have to fill around the proposed house and septic. Fill will also be required to construct the residential rain garden and drywell. Denial would deem the lot unbuildable which poses an unnecessary hardship to the applicant.
 - b. "The proposed use is a reasonable one:"
 - The proposed use is a reasonable one because it allows the parcel to be reasonably developed with a use that is allowed in the zone, while protecting the existing wetlands through the use of stormwater treatment systems and erosion and sediment control measures.

Thank you for your time and attention to this matter. We hope you look favorably upon the request for variances for this existing pre-existing lot of record.

BERRY SURVEYING & ENGINEERING

Christopher R. Berry Principal, President





AERIAL PHOTO
LAND OF
THOMAS & CAROLYN RAMSBOTHAM
NUTE ROAD
MADBURY, N.H.
MADBURY TAX MAP 2, LOTS 19B
BARRINGTON TAX MAP 251, LOT 44

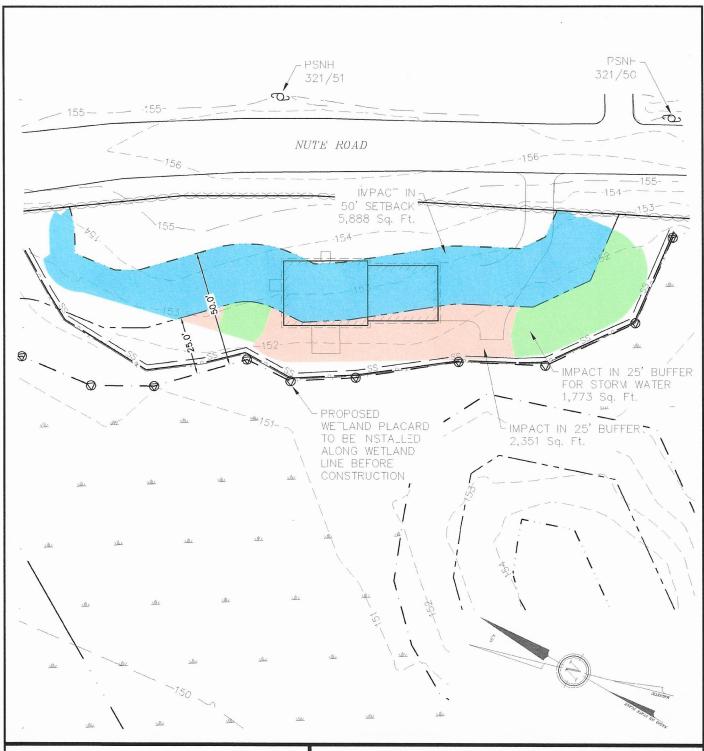
BERRY SURVEYING — & ENGINEERING

335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863

SCALE: 1 IN. EQUALS 100 FT.

DATE: MARCH 10, 2021

FILE NO.: DB 2020-106



BUFFER IMPACT PLAN
LAND OF
THOMAS & CAROLYN RAMSBOTHAM
NUTE ROAD
MADBURY, N.H.
MADBURY TAX MAP 2, LOTS 19B
BARRINGTON TAX MAP 251, LOT 44

BERRY SURVEYING — & ENGINEERING

335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863

SCALE: 1 IN. EQUALS 40 FT.

DATE: MARCH 10, 2021

FILE NO.: DB 2020-106

KNOW ALL MEN BY THESE PRESENTS, That I. Frank H. Drew, single, of R.F.D. #2 (Drew Road, Madbury) Dover, New Hampshire,

for consideration paid, grant to Thomas Ramsbotham and Carolyn J. Ramsbotham, both of R.F.D. #2 (Nute Road, Madbury), Dover, New Hampshire,

with warranty covenants

as joint tenants with rights of survivorship, A certain tract of land situated partly in the town of Madbury and partly in the town of Barrington, New Hampshire, lying on the Westerly side of the road leading from William B. Leak's dwelling house in Barrington to the town House in Madbury, and is bounded and described as follows, viz; beginning on the Westerly side of the aforesaid road at the Northerly corner of land of Frank H. Drew at a rock marked "H"; thence Northwesterly by the aforesaid road thirty-one and a half rods to land of Sherman L. Baxter formerly owned by Robert Huckins; thence South 63° West by land of said Baxter seventy-two rods to a stake and stone; thence South 11° East by land of Frank H. Drew fifteen rods to a stake and stone; thence North 76° East by land of said Drew along the fence and wall seventy-two rods to the bound begun at, containing ten acres and one hundred and thirty-four square rods be the same more or less, and is the same land described in the deed of Sophia M. and Jonathan Young to Charles D. Lock dated November 15th, 1870, recorded in Strafford County Records Book 249, Page 25. For further title see will of Charles D. Lock which gives the property to Peter Ladd, and later willed by Peter Ladd to L. Plummer Ladd, see Rockingham County Probate Records. Please see deed L. Plummer Ladd to Frank H. Drew dated March 28, 1947, and recorded in Strafford County Records, Book 546 and Page 337.



mitness my hand and seal this

Frank H. Drive

, 19 76.

My Commission Expires November 29, 1977

State of New Hampshire

STRAFFORD

88.:

December

30.

A. D. 19 76.

Personally appeared

Frank H. Drew

known to me, or satisfactorily proven, to be the person subscribed to the foregoing instrument and acknowledged that

whose name is

he

executed the same

for the purposes therein contained.

REGISTER OF DEEDS

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