



## MADBURY PLANNING BOARD

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8 April 2021

### MEMORANDUM FOR MADBURY ZONING BOARD OF ADJUSTMENT

FROM: MADBURY PLANNING BOARD

SUBJECT: Review of Zoning Requirements for Nute Road Tax Map 2, Lot 19B

During its 7 April 2021 meeting the Planning Board (PB) met with representatives from Berry Surveying and Engineering regarding a possible single family home on Lot 2-19B.

The issue was referred to the PB by the Zoning Board of Adjustment (ZBA). The PB reviewed the attached Existing Conditions and Variance Plans. The PB also reviewed the attached variance application. In reviewing the application the PB only considered if the appropriate ordinances were cited and did not consider the applicant's argument. The PB used the attached narrative memo to guide its discussion.

The Planning Board determined that:

(1) The first variance request involves Building Regulations and not Zoning Ordinances and is therefore not appropriate for PB review. The PB noted that the ZBA is aware of this.

(2) The PB found that the second variance request cites the correct Zoning Ordinances.

(3) Regarding the third variance request, the PB found that variances should be requested for both poorly drained soils under Zoning Article IX, Section Five Paragraph B.6 and for wet areas under Zoning Article IX, Section Five Paragraph B.4. The PB determined that both are needed since elements of the plan impact both setbacks.

(4) The PB found that the fourth variance request cites the correct Zoning Ordinances.

(5) The PB also noted that part of the property is located in the Shoreland Protection Overlay District, Zoning Article X, Section 2, Paragraph C, due to a U.S.G.S. topo map identified stream running through the south, southeast side of the property. Accordingly a 75 foot setback is required from the high water level of the stream. Berry engineering concurred and explained that the 75 foot Shoreland set back is encompassed within the mapped wetland set back. As such, the PB did not identify a need for a Shoreland Protection variance but did recommend that Shoreland Protection setbacks be added to the plan for full disclosure.

(6) The PB also noted that the proposed water well's sanitary protective radius extends onto abutting property. Since this property is a lot of record created before Aug 20, 1989; this is

acceptable. However the PB does not consider possibly encumbering abutting properties to be a good practice. With that said Berry Engineering indicated that the owners of Lot 2-19B would provide a release of rights to the sanitary radius on the abutting land. The PB found this to be acceptable and recommended that it be added to the plan for full disclosure.

Please forward any questions to the Madbury Planning Board at [MadPlanBoard@gmail.com](mailto:MadPlanBoard@gmail.com).

Respectfully,

*Mark Avery*

Mark Avery  
Chair, Madbury Planning Board

Attachments:

- (1) Existing Conditions and Variance Plans for Thomas and Carolyn Ramsbotham of Tax Map 2, Lot 19B.
- (2) Variance Application
- (3) Planning Board Narrative “Request for Variances Buffers” Memo