



## MADBURY PLANNING BOARD

13 Town Hall Road, Madbury NH 03823  
Tel: 603 742-5131 • Fax: 603 742-2502

18 October 2021

MEMORANDUM FOR TOWN OF DURHAM PLANNING BOARD

FROM: MADBURY PLANNING BOARD

SUBJECT: MADBURY'S JURISDICTION OF THE CROSSINGS SUBDIVISION

This memo addresses Madbury's jurisdiction and expectations regarding the portion of "The Crossings Subdivision" (a.k.a. Gerrish Drive Subdivision), dated 12 August 2021, 91 Baghdad Rd., Durham NH (Madbury Tax Map 9 Lot 32) located in Madbury.

Madbury's Subdivision Regulations and Zoning Ordinances do not expressly address regulation of condominiums, as required by NH RSA 365-B:5. The Planning Board sought legal counsel on this matter and has determined that the Town of Madbury lacks jurisdiction to regulate the proposed subdivision.

While the Madbury Planning Board cannot issue a formal subdivision approval, the Town of Madbury's Zoning Ordinance, Road Standards, and Building Regulations still apply to land within Madbury.

Based on the information presented at the applicant's 1 September 2021 preliminary consultation with the Madbury Planning Board and Madbury's Zoning Ordinances, the Madbury Planning Board respectfully requests that the Town of Durham Planning Board review and incorporate these conditions when considering the approval, conditional approval, or denial of the proposed Crossings Subdivision:

1. Provisions of the Zoning Ordinances of the Town of Madbury apply to the portion of the development that is located in Madbury.
2. No use, including the proposed walking trails shall infringe on the 25-foot undisturbed wet area buffer (Madbury Zoning Ordinance Article IX, Section 5).
3. Stormwater management, roads, structures, or other development shall not be located in areas subject to the Wet Areas Conservation Overlay District (Madbury Zoning Ordinance Article IX).

4. Apart from existing mutual aid agreements between the Towns of Durham and Madbury, Madbury will not provide any additional civic services to homes in this development including those fronting the portion of the private road located in Madbury. The Town of Madbury shall not be responsible for any maintenance or repairs of the private road.
5. Applicant shall coordinate with Madbury's Road Agent and Building Inspector for approval / permits for the portion of the private road and development in Madbury.
6. Applicant shall provide a copy of the deed restriction, conservation easement, or other open space protection language that affects land in Madbury to the Madbury Planning Board.
7. The Town of Madbury shall be notified of any proposed changes to the plan dated 12 August 2021. If there are substantial changes to this plan, please provide a copy of these plans to the Town of Madbury Planning Board prior to approving or conditionally approving the application.
8. Please provide a final, complete, approved plan set to the Town of Madbury Planning Board.

The Town of Madbury Planning Board recommends that the above comments be supplied to the applicant and their architects and engineers.

The Madbury Planning Board is happy to meet with the applicant, provide additional information to the Durham Planning Board, or respond to any questions to help with the implementation of the above.

Respectfully,

Mark Avery  
Chair, Madbury Planning Board

cc:

Mike Sievert, Horizons Engineering  
Michael and Martha Mulhern, Property Owners