

**MADISON ZONING BOARD
APPROVED MINUTES
AUGUST 17, 2016**

CALL TO ORDER: Mr. Lucy, Chair, called the meeting to order at 6:04 P.M.

PLEDGE OF ALLEGIANCE: Mr. Lucy led those assembled in the Pledge of Allegiance.

ROLL CALL: Mrs. King called the roll.

ATTENDANCE:

Mark Lucy, Chair – Present

Stuart Lord, Vice-Chair – Present

Hershel Sosnoff, – Present

Henry Anderson – Present

Ken Hughes – Excused

Mark Totman, Alternate – Present

Kevin O’Neil, Alternate – Excused

Staff Present: Colleen King, Land Use Administrator

Others Present: Allan and Elizabeth Stark, Nancy Cole-VDOE

POSTING DATES & LOCATIONS: 8/3 at Madison Town Hall and Lower Level, Madison Post Office, and Silver Lake Post Office, Conway Daily Sun (8/5/16)

POLLING FOR CONFLICT OF INTEREST/ SEATING OF ALTERNATES:

After Mrs. King read Case # 16-03 into the record, Mr. Lucy polled each Board Member for any Conflict of Interest issues with this Appeal. Hearing none, Mr. Lucy elevated Mr. Totman to a full member for this hearing, in the absence of Mr. Hughes and a full Board will hear Case # 16-03.

REVIEW OF WAIVER REQUESTS: Mr. Lucy asked if there were any waiver requests for Case 16-03. Mrs. King explained that a waiver request was submitted by the applicants asking that their septic site plan which was installed in Spring of 2016, be used in place of a certified site plan. Mr. Lord felt that it would be adequate for this hearing. Mr. Lucy stated that a septic plan is not a certified site plan and given the nature of this request, he did not approve of the waiver. Mr. Lord made a Motion to accept this waiver request to use the Septic site plan; Mr. Anderson seconded. There was no discussion. The vote was 4 to 1, with Mr Lucy voting no.

REVIEW OF REGIONAL IMPACT: The Board was polled on whether this case was of regional impact. Four members voted that there was no impact and Mr. Totman abstained.

RULES OF PROCEDURE: Mr. Lucy read and explained that the Rules of Procedures should be given to all applicants so they understand the process and procedures of the ZBA hearings and allow for ample preparation time prior to the hearing date. Mrs. King assured that all future applicants will receive the Rules of Procedure prior to any application submittals and that the area for the Appeal will be flagged. The Boards needs to see where the intended location is for any proposed structures. Mr. Lucy asked if there was anyone in the audience who intended to speak to the Appeal and sworn them in.

ZBA CASE # 16-03

31 St. Moritz Drive, Tax Map 104/Lot 20, Edelweiss Residential District

Mr. and Mrs. Allan Stark requested Variance pursuant to the Madison Zoning Ordinance 5:9.F, to construct a shed within the setbacks, 10 feet from the rear lot line where 20 feet is required in the Edelweiss Residential District.

Mr. Lucy asked the applicant to state their Appeal. Mrs. Stark explained that their property is a corner lot on St. Moritz and Basil Street, with an address of 31 St. Moritz. Mrs. Stark presented a series of photographs depicting the structure currently on their lot and where the proposed 10' x 12' shed would be located. The shed, which will have matching siding with the house, will be used to store lawn equipment, tools and other recreational items. Mrs. Stark further explained that due to the circular driveway and the position of their home on the lot, any location for a shed would require a Variance. The proposed location will be 10' from the lot line of a vacant lot owned by the Village District of Edelweiss (VDOE).

Mr. Lucy asked the Board if they had any questions for the Applicant. Mr. Lord asked for clarification of the shed location and verified that the size of the lot is .26ac.

Mr. Anderson suggested a larger door on the shed to accommodate lawn equipment.

PUBLIC COMMENT

Mr. Lucy opened the hearing for anyone to speak in favor of this Appeal.

Ms. Nancy Cole, representative of the VDOE, stated that the official 911 address of the Stark's home is 31 Moritz Drive. Ms. Cole verified that the rear abutting lot in question is a municipal-owned, non-buildable lot on Basil Street and is used for drainage culverts in the VDOE. The VDOE Board of Commissions voted to support the Stark's request for a 10' x 12' shed.

Mr. Lucy asked if anyone wanted to speak in opposition to this Appeal. Hearing none, Mr. Lucy closed the public portion of this hearing.

SUMMARY OF FACTS

Mr. Lucy reviewed the following facts:

- The lot size is approximately ¼ ac.
- The request is for a 10' lot line setback, where 20' is required in the VDOE.
- The lot abutting the location of the shed is lot 104/21 and is owned by VDOE.
- The abutting lot is a non-buildable, municipal-owned lot.
- The Applicant is requesting to build a 10' x 12' shed.

Mr. Lucy made a motion to closed deliberation on this case.
Mr. Sosnoff seconded. All in favor; Motion passed.

Mr. Lucy moved that the Summary of Facts become the Findings of Facts.
Mr. Sosnoff seconded. All in favor; Motion passed.

BOARD DELIBERATION

The Board reviewed the Variance criteria.

Mr Lucy stated the following:

- This application is not contrary to the public intent.
- Granting this application would be within the spirit and intent of the ordinance.
- Substantial justice would be advanced as other houses in the neighborhood have a shed.
- The literal enforcement would be an unnecessary hardship owing to the special conditions. The record shows that other properties in the area have sheds.

Mr Sosnoff stated:

- The value of the surrounding properties would not be diminished and the shed would fit in well with the neighborhood.
- Fair and substantial justice would be served by approving this request as the ordinance is in place to protect the abutter, which in this case is a vacant lot.

Mr Lord stated:

- This is the smallest of the abutting properties and it is a corner lot.

MOTION

Mr Lucy made a motion to grant approval for the construction of a shed within the setbacks on 31 St Moritz Drive, Tax Map 104/Lot 20, as presented.

Mr Anderson seconded, with no further discussion.

All in favor; motion passed.

Mr. Lucy reviewed the 30-day appeal period

There was some discussion regarding the submittal of photographs by the applicant at the hearing. Mr Lucy stated that photos are not required; however, applicants should feel free to present them to further present their case.

APPROVAL OF JULY 20, 2016 MINUTES: Draft Minutes were reviewed and edits made. Mr. Lucy made a motion at accept the minutes as amended; seconded by Mr. Sosnoff. Four members in favor; Mr. Totman abstained. Motion passed.

NEW BUSINESS:

Draft Budget – This will be reviewed at the next meeting on September 18, 2016.

Mrs King will provide an current draw-down of the budget.

OLD BUSINESS:

FIRST HEARING ON RULES OF PROCEDURE

The following comments were made by the Board, in response to the Attorney's comments:

-Mr Lord stated on page 5, 'In all cases, there must be 3 approved votes'.

-Mr Sosnoff stated the wording should be '3 affirmative votes' and that the sentence should read 'In accordance with NH RSA 674.33.III, 3 votes shall be required to approve an appeal.'

-Mr. Lucy suggested that the Instructions to the Applicants document be reviewed as part of the Rules of Procedure. Mrs King will reviewed these instructions.

The Second Hearing on the Rules of Procedures will be held on September 21, 2016.

TRAINING

Mrs King made contact with the NH Planners Association (NHPA) to plan a training session for Zoning and Planning board members in the Mt Washington Valley and surrounding towns. It would also encompass current legal updates. Mrs King will contact the Madison Elementary School for availability of a November 5, 2016 tentative date and will follow up with the NHPA.

Mr. Sosnoff discussed the recent Senate approval of Accessory Dwelling units. Mr Lucy stated that this would be a good topic for the NHPA Legal Update training.

ADJOURNMENT

Mr. Lucy made a motion to adjourn.

Mr. Anderson seconded; Motion passed.

Meeting adjourned at 7:15pm

The next ZBA Meeting is scheduled on September 21, 2016.

Respectfully Submitted,

Colleen King
Land Use Boards Administrator

These Minutes were approved on September 21, 2016.