



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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**ZBA APPROVED MINUTES
DECEMBER 19, 2018**

CALL TO ORDER: Chairman Lucy called the meeting to order in the Town Hall meeting room at 6:00pm.

PLEDGE OF ALLEGIANCE: Mr. Hughes led those in attendance in the Pledge of Allegiance.

ATTENDANCE: Mrs. King called the roll:

Mark Lucy, Chair - Present.

Mark Totman - Excused

Stuart Lord - Present.

Bebe Bartlett, Alternate - Excused

Ken Hughes - Present.

Melissa Arias, Alternate - Excused

Henry Anderson - Present.

Kevin O'Neil, Alternate - Excused

OTHERS PRESENT: William & Iona Hayden, Ronald Briggs, Colleen King - Land Use Administrator, Carol Dandeneau – Madison TV Videographer.

MEETING NOTICE/ ELEVATION OF ALTERNATES:

Mrs. King reported that tonight's meeting is a continuance from August 15, 2018 and was posted on November 20, 2018 in the, Madison Town Hall upper and lower levels and the Madison & Silver Lake Post Offices. Although not required, a notice was sent by regular first class mail to all abutters. One of the abutters did send in a response. There were no Alternates present for tonight's hearing.

PUBLIC HEARING:

CASE # 18-05 (con't from August 15, 2018): A Variance is requested pursuant to Madison Zoning Ordinance Article V, Section 5.9 A & C by owners William and Iona Hayden, with agent Ron Briggs, for property located at 34 Island Drive, Map 107, Lot 37, to permit a 12' x 16' shed to be located within the boundary line setbacks and has been re-designed for this continued case.

CONFLICT OF INTEREST:

The Board was individually polled for any conflicts of interest with Case #18-05:

Mr. Lord - No

Mr. Hughes - No

Mr. Anderson - No

Mr. Lucy - No

Mr. Lucy stated that although Mr. Briggs did the survey plan for this case, the original plan was prepared by the same company that employs Mr. Lucy. The original plan was prepared in 1982.

Mr. Lucy did not begin his employment with that company until 1984 and therefore does not believe that there is any conflict of interest on his part. Mr. Lucy polled each Board member on whether he has a conflict of interest on this item: Mr. Lord – No, Mr. Anderson – No, Mr. Hughes – No.

Mr. Lucy also asked the applicant and their agent if they felt there was any conflict of interest on his part and they answered 'no'.

Mr. Lucy pointed out that there are only has 4 members of the Board present and explained that in order for the appeal to be granted, there must a 3 votes in the affirmative. A tie 2-2 vote will result in a denial. The applicant agreed to proceed with the 4 member board.

WAIVER REQUEST:

There were no waiver requests for this application.

REGIONAL IMPACT:

The Board was individually polled on whether this case had regional impact:

Mr. Lord - No Mr. Hughes - No

Mr. Anderson - No Mr. Lucy - No

RULES OF PROCEDURE/ SWEARING-IN:

Mr. Lucy addressed the Rules of Procedure and swore-in those who wished to speak on this Public Hearing.

CASE PRESENTATION:

Mr. Briggs explained that in light of the abutter's input from the last meeting, the applicant is relocating the shed from the previously proposed location to the front of the house. This new location meets the sideline setback and setbacks from the water. It does not meet the setback from the centerline of the road; the proposed location is 35.2' from the centerline setback. There are overhead electric wires, very large oak trees and the location of the leech field which need to be taken into consideration.

Mr. Briggs dated and signed a plan which included these items for the record.

Mr. Lord asked how far to the right could the shed could be moved? Mr. Briggs answered 3' to the right.

Mr. Lucy asked about the location of utility trailer on the property. Br. Briggs offered photos with the utility trailer located on the leech field; the photos were entered into the record.

Mr. Lord clarified that this is a very small lot of .36 acres with a steep grade on the north side of the house towards Pea Porridge Pond.

PUBLIC COMMENT:

Mr. Lucy opened the Hearing for anyone to speak in favor or against this application.

Mrs. King read a letter from abutters Mr & Mrs Stan Reczek of 32 Island Drive which addressed their concerns with the disturbance to the land caused by the original shed within 5' of the property line. Mr. Lucy stated that the issue of restoration is an enforcement issue and the Code Enforcement Officer has received a copy of this letter. This issue is not within the scope of this Board. Mr. Briggs stated that when the applicant was purchasing the property, he did the Flood Elevation Certificate. They have not disturbed or expanded the footprint. They did add fill to raise the grade and added rocks to prevent erosion. Mr. Lucy pointed out that this is a State level regulation,

Hearing no further public input, Mr. Lucy closed the Public Comment portion of the Hearing.

BOARD DELIBERATION:

Mr. Lucy summarized the Statement of Facts:

1. The lot size is 3/10 acre in the Rural Residential Zone.
2. It is not in Village District of Eidelweiss.
3. This lot has been a lot of record prior to Zoning.
4. The shed is 12'x 16' in size.
5. The proposed location is 34' from the center line of Island Drive based on the sketch provided, along with 4 pages of photographs.
6. The Town setback is 75' from the center line of the road.

Mr. Lord observed that this is the only location that minimizes the need for a Variance and it does not encroach on the 25' sideline setback. It meets the 75' setback from the lake and there is no other location that is less non-conforming.

Mr. Lucy stated that the Variance procedure is in place for lots like this one.

Mr. Lucy closed the Deliberation of the Board and led a review of the Variance Conditions for relief from Ordinance 5.9A which requires 75' from centerline of the road. Mr. Lord pointed out the dimensions and slope of the lot and the size of the house make this property unique from other lots which have a shed. Without a Variance, this lot has special conditions which require a Variance.

Mr. Anderson stated that a shed will contain many unsightly items, which is the purpose of the Ordinance.

Mr. Hughes stated that the applicant has shown good faith in correcting the location of the shed and justice will be served.

Mr. Lord does not think that this shed will negatively impact the surrounding properties.

MOTION:

Mr. Lucy moved that the Variance be granted to allow the 16' x 20' shed to be located 34' from the centerline of Island Drive. Mr. Hughes seconded with no discussion

VOTE: All Approved 4-0.

Mr. Lucy reviewed the 30-Day Appeal period stating that day one begins on December 20, 2018.

APPROVAL OF AUGUST 15, 2018 DRAFT MINUTES

The Draft minutes were reviewed with edits made.

MOTION was made by Mr. Lucy seconded by Mr. Lord, with no further discussion.

VOTE: Mr. Lucy, Mr. Lord, Mr. Anderson, Mr. Hughes approved. **APPROVED.**

NEW BUSINESS:

REVIEW OF ZONING ORDINANCE:

Mr. Anderson had a question on 'Stonewalls' - At the last Town meeting, the definition was added on page 64, stating a maximum height of 48" above ground level and asked, How is ground level defined?

Mr. Lucy suggested that the lower ground level should be used.

Mr. Hughes found a conflict with the definition of 'footprint' on pg. 59, including balconies, decks, steps, overhangs, chimneys' and then on pg.6, the first paragraph B, ' not including balconies, decks, steps, overhangs, chimneys'.

Regarding Zoning Ordinance 1.3B, Mr. Anderson asked why don't we use 36' above ground level instead of sea level? Mr. Lucy stated that the elevation of Silver Lake is a known elevation.

Mr. Lord stated that this is all information for the Planning Board. Mrs. King stated that the Building Inspector is also reviewing Zoning Ordinance at this time.

2019 BUDGET REVIEW:

Mr. Lucy expressed concerns with past filing of ZBA cases and requested more hours for Mrs. King to work on Records Retention.

2019 MEETING SCHEDULE:

Title should be Madison Zoning Board of Adjustment Regular Meeting Schedule.

Reverse the deadline date column and the meeting date deadline.

Mrs. King will confirm that the deadline date on the application and on the Meeting schedule listing is uniform.

NH CASE LAW UPDATE: Mrs. King explained that the 5 criteria for a Variance do not have to be voted on individually as long as the minutes reflect that the 5 criteria was discussed in the Board Deliberation.

DES PROPOSALS: Mr. Lucy asked to have the handout reprinted.

NON-PUBLIC SESSION:

At 7:15pm, Mr. Lucy made a **MOTION** to adjourn the Public Meeting and enter a Non-Public Session: **Pursuant to RSA 91-A:3 II L** – Consideration of Legal Advice provided by legal counsel, either in writing or orally, to one or more members of the public body (Zoning Board of Adjustment) even where and when legal counsel is not present. Mr. Lord seconded the Motion.

Roll call vote by Mrs. King: Mr. Lucy – Yes, Mr. Lord – Yes, Mr. Anderson – Yes, Mr. Hughes – Yes, with Mr. Totman, Mrs. Bartlett, Mrs. Arias and Mr. O’Neil – Excused. **APPROVED**

Madison TV stopped recording and left the meeting room. The public meeting adjourned at 7:15pm.

There were no motions or decisions made during the Non-Public session.

At 8:22pm, Mr. Lucy made a **MOTION** to leave Non-Public Session and seal the minutes; Mr. Lord Seconded.

Roll call vote by Mrs. King: Mr. Lucy – Yes, Mr. Lord – Yes, Mr. Anderson – Yes, Mr. Hughes – Yes, with Mr. Totman, Mrs. Bartlett, Mrs. Arias and Mr. O’Neil – Excused. **APPROVED**

Respectfully submitted,
Colleen King, Land Use Administrator

These Minutes were APPROVED at the January 16, 2019 ZBA meeting.