



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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**ZBA DRAFT MINUTES
JULY 15, 2020**

CALL TO ORDER: Chairman Lucy called the meeting to order at 6:03pm, and requested that Mr. Anderson lead those in attendance with the Pledge of Allegiance.

ATTENDANCE: Mrs. King called the roll:

Mark Lucy, Chair - Present.

Henry Anderson - Present.

Mark Totman – Excused

Bebe Bartlett – Excused

Stuart Lord - Present.

OTHERS PRESENT: Peter Kennifick, Carol Dandeneau - Madison TV and Colleen King - Land Use Administrator.

APPROVAL OF APRIL 15, 2019 DRAFT MINUTES: The Draft Minutes were reviewed with edits made. **MOTION** was made to approve the minutes as amended by Mr. Lord, seconded by Mr. Lucy with no further discussion. **VOTE:** Mr. Anderson – Yes Mr. Lord – Yes Mr. Lucy - Yes

PUBLIC HEARING:

CASE # 20-2: A variance is requested pursuant to Madison Zoning Ordinance Article V, Section 5.9A by Peter and Mary Kennefick of East Walpole, MA for property located on Davis Lake Ave, Tax Map 116 Lot 42, in the Rural Residential Zone, to permit the construction of a 12' x 14' shed on an undeveloped lot that will have a setback distance of 45' from the center line of the road, where 75' is required.

MEETING NOTICE:

Mrs. King reported that tonight's meeting was posted on July 1, 2020 in the Madison Town Hall upper and lower levels, the Madison & Silver Lake Post Offices and the Conway Daily Sun. All abutters were notified by certified mail.

CONFLICT OF INTEREST:

The Board was individually polled for any conflicts of interest with Case #20-02:

Mr. Anderson - No Mr. Lord – No Mr. Lucy - No

RULES OF PROCEDURE: Mr. Lucy explained to the Applicant that they are entitled to a full 5-member board and with only 3 Board members present to consider their request, if denied, they cannot use a reduced member board as a reason for appeal. Mr. Lord clarified that a unanimous vote of the 3 Board members present is required. Mr. Kennifick agreed to proceed with the hearing.

WAIVER REQUESTS: Mr. Kennifick explained his waiver request from a certified plot plan and that the cost of a certified plan would be 30% of the cost of the shed for his 80' x 100' lot. Mr. Lucy confirmed that the lots in Madison Shores are small and most likely predate the Land Use Regulations. Mr. Lucy made a **MOTION** to grant the waiver request; seconded by Mr. Lord.

DISCUSSION: Mr. Lord stated that although the slope of the land that would be clearly delineated on a certified plot plan, the photos do show the slope. Mr. Anderson stated that this area had very small lots and this request does conform to the area.

VOTE: Mr. Anderson - Yes. Mr. Lord - Yes. Mr. Lucy - Yes

REGIONAL IMPACT:

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

Mr. Anderson – No Mr. Lord – No Mr. Lucy – No

SWEARING-IN:

Mr. Kennifick was sworn-in by Mr Lucy

PRESENTATION/ BOARD QUESTIONS:

Mr. Kennifick presented his request for a shed on the lot and his house is across the street. The lot is small and the shed is 12' x 14'.

Mr. Lucy inquired about the road setbacks. The shed will face Davis Lake Ave and is a dead end. The shed will meet the side and rear setbacks. Mr. Lucy reviewed the definition of an Accessory Building and whereas this shed is the only structure on the lot, it is the primary structure and not an accessory building. Mr. Lord agreed that this shed would be the primary use. Mr. Lucy stated that this does not preclude the applicant from putting a dwelling unit on the lot or converting the shed into a dwelling unit at some time in the future. For this hearing, this shed is considered to be the primary structure.

Mr. Lord asked why the shed could not be moved up the hill closer to the rear lot line where there is 44' clearance. The rear lot line setback is 25. Mr. Kennifick explained that the hill is very steep with a 32' over 100' drop. He would have to cut into the hill and he wanted to put the shed on an area with the least impact to the land. Based on the photos and the slope of the land, Mr. Lord stated that the shed could be moved back.

Mr. Lucy confirmed that he did apply for a building permit and was denied.

Mr. Kennifick stated that there are 6 primary residences on the road do not meet setbacks because of the small lot sizes.

Mr. Lord confirmed that the applicant would be willing to move the shed further back to where he could reasonably get to it.

PUBLIC COMMENT:

Mr. Lucy opened the Hearing for anyone to speak for or against this application. Hearing nothing further, Mr. Lucy closed the Public Comment portion of the Hearing.

BOARD DELIBERATION:

Mr. Lucy read the conditions to be met for Variance and led a discussion on the conditions.

Mr. Lord stated that there is no place on the lot that meets all the setback requirements.

Mr. Lucy confirmed that this buildable lot of record was purchased from the Town in 2013 and all taxes have been paid yearly. It is not unusual for a house to have a shed.

Mr. Anderson stated that the conditions were met.

Mr. Lord visited the proposed area for the shed and it appears to be closer to the road than the other houses near it. The spirit of this ordinance is to allow for openness in the area and in this neighborhood, if the shed was pushed back 10' further from the road, it would not feel as crowded. It would then be 34' from the rear lot line and 55' from the center line of the road.

After Mr. Lucy reviewed the lot line dimensions, an error was discovered in the measurements.

1.The building setback is 45' from the centerline of the road.

2.The building setback is 44' from the rear lot line.

3. Adding the 12' for the shed equals a length of 101'. Therefore the 45' from the centerline of the road is incorrect. The 45' measurement would be from the front ROW line. Mr. Kennifick agreed that the measurements are in error and that the difference of 10' is from the center of the road and the edge of the property. The estimated total road width is 20'.

Mr. Lucy reviewed the lot measurements and affirmed the value of a certified plot plan.

Mr. Lord confirmed that the application has been modified and the shed would have to be placed 55' from the centerline of the road. Due to a math error on behalf of the applicant, a correction was made on the location of the shed. It will be 10' further back.

Mr. Lucy reviewed the Summary of Facts:

1. The lot was created prior to the adoption of Madison Zoning Ordinance.
2. Most buildings in this neighborhood are non-conforming.
3. The shed will be the primary structure on the lot.
4. The shed will be placed 55' from the centerline on the roadway, rather than 45'.

Mr. Lucy closed Board deliberation.

MOTION/VOTE: Mr. Lucy called the **VOTE**, seconded by Mr. Lord to grant the Variance request with the provision that the measurement on the application was modified from 45' to 55' to the centerline of the roadway. Mr. Anderson – Yes Mr. Lord – Yes Mr. Lucy – Yes Motion was **APPROVED**.

Mr. Lucy reviewed the 30-Day Appeal period stating that day one begins on July 16, 2020.

ADMINISTRATION: Mr. Anderson requested more Board members. Mr. Lord inquired about the possibility of having call-in option for future meetings.

ADJOURNMENT:

Mr. Lucy made a **MOTION** to adjourn; Mr. Lord seconded. All Approved.
The meeting adjourned at 7:01pm.

Respectfully submitted,
Colleen King, Land Use Administrator

DRAFT