



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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**ZBA APPROVED MINUTES
JULY 21, 2021**

CALL TO ORDER: Mr. Stuart Lord called the meeting to order at 6:00pm and led those in attendance in saying the Pledge of Allegiance.

ATTENDANCE: Mrs. Cyr called the roll:

Stuart Lord -Present Drew Gentile -Present George Rau – Present Mark Totman -Present
Doug McAllister- Present. Bebe Bartlett - Present Marc Ohlson - Present

OTHERS PRESENT: Kim Cyr - Land Use Administrator, Carol Dandeneau - Madison TV, Mark McConkey, Jake McConkey, Michael O'Keefe, Kathleen O'Keefe, Stephen Cateon, Scott Santos, Katharine Koziell, Jay Buckley, John & Terri Cancelarich, Brian & Sheila Evangelista

ELEVATION OF ALTERNATES: N/A

APPROVAL OF June 16, 2021 DRAFT MINUTES:

The Draft Minutes were reviewed with edits. A **MOTION** was made by Mr. Lord to approve the minutes as amended; seconded by Mr. Gentile. **VOTE:** 5-0 Mr. Lord - yes, Mr. Gentile - yes, Mr. Ohlson- yes, Mrs. Bartlett - yes, Mr. McAllister – yes.

PUBLIC HEARING:

Case # 21-03R Re-Hearing - Variances are requested by Mark McConkey, agent for David Furtado and Stephen Cateon, for property located at 26 Huttwil Drive, Map 104, Lot 1, in the Village District of Eidelweiss, to construct a house and septic system on a 0.20 ac parcel, in violation of Madison Zoning Ordinances Article V, Section 5.9E and Article IV, Section 4.5 C with the following relief:

- 1) The house to be 40 feet from the center line of Huttwil Drive, where 65 feet is required,
- 2) 25 feet from the rear boundary line, where 40 feet is required
- 3) 10.63 feet from a wetland 0.25 acres or larger in size, where 50 feet is required and
- 4) A waste disposal system to be 50 feet from a wetland, where 75 feet is required.

MEETING NOTICE: Mrs. Cyr reported that tonight's Public Hearing was posted on July 1, 2021 in the Town Hall upper and lower levels, 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 # 21-03R: Mr. Gentile - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Totman - no.

RULES OF PROCEDURE/ WAIVER REQUEST:

Mr. Lord reviewed the Rules of Procedure for this Hearing and Mrs. Cyr reported that there are no waiver requests.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Totman - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Gentile - no.

SWEARING-IN: Mark McConkey, Jacob McConkey, Michael O'Keefe, Kathleen O'Keefe, Stephen Cateon, Scott Santos, Katharine Koziell, and Jay Buckley were sworn-in to testify for this hearing.

PRESENTATION/ BOARD QUESTIONS: Mr. McConkey agent for the applicant, explained the variances requested for the lot located at 26 Huttwil Drive. Mr. McConkey's understanding is that the lot was a legal lot before zoning. Mr. McConkey explained that the owners purchased this 0.20ac parcel in 2010 from the Town in a Tax Sale Auction for \$500.00. They had the lot surveyed and had a wetlands scientist, Gary Flaherty NH Lic #2, flag the boundaries. The plan is to build a 24' x 40' 2 bedroom home with a 1' roof overhang. There will be a 4' frost wall and the ranch home will be on top. The setbacks from the structure are from the overhang. The whole lot is a compromise with respect to all setbacks. The board was informed that there will be two parking spaces.

PUBLIC COMMENT: Mr. Lord opened the hearing for public comment.

Mr Cateon, property owner, stated that he spoke to the VDOE office and was told that the lot was buildable. He also stated that the lot is below grade of 25 Huttwil Drive and does not impact the abutting lots. The drainage from the lot goes into a drain. This will be a retirement home not for resale or profit.

Mr. Santos spoke stating that not all of the Eidelweiss community is on community water. Mr. Santos bought his property all built and has a well. He believes that the variances requested are extremely deviant from the requirements, 30 sq ft building envelope is very non-complaint. Mr. Santos objects to the project at 26 Huttwil Drive due to the impact to his septic system and water table.

Mr. Buckley, VDOE Commissioner, spoke on behalf of the VDOE Board and they were not supporting the project. He also informed the Board that VDOE has community water because of the spacing of wells, septic systems, and setbacks. VDOE can not guarantee water service to 26 Huttwil Drive. They will need to test the water system to see if it can support the water tie-in.

Mr. O'Keefe, of 25 Huttwil Drive, does not support the project. He is concerned about the wetland impact and the increase in traffic in the neighborhood. Mr. O'Keefe stated that the property was purchased at public auction as an unbuildable lot.

Kathy Koziell spoke against the project. She stated that an approval would be excessive relief.

Hearing no further comments in favor or opposed to the appeal, Mr. Lord made a **MOTION** to close the public hearing; Mr. McAllister seconded. All Approved.

FINDING OF FACTS: Mr. Lord lead the Board in a review of the Findings of Facts:

1. The lot only works if Community water is available
2. Very small lot 0.20 acres – one of the smallest lots
3. Buildable space that meets the setbacks is 30 sq ft (3'x10')

4. Roughly 25% of lot is on poorly drained soil
5. The proposed driveway, house, and septic system takes up approximately 25% of the lot
6. Proposed 24'x40' two bedroom with 1' overhang with 4' frost wall with ranch house on top
7. Wetlands survey completed by Gary Flaherty NH Lic #2
8. Property is lower than the abutting properties with houses on them
9. Septic System complies with State regulations
10. Property was purchased after ordinances were put into place
11. Property was dry after extreme rain and has no standing water

DELIBERATION: Mr. Lord led a discussion of the 5 criteria for a Variance. Mrs. Bartlett and Mr. Totman stated this request would not be contrary to the public interest, as it doesn't violate the basic zoning objective.

Mr. Lord continued: the Spirit of the Ordinance is to allow to have a modest size house does not violate that spirit. The ordinance allows grandfathering of existing lots. The house would not affect the health, safety, and welfare of the public. The Substantial Justice would be served as it would allow a house to be built without being a detriment to the public. The Values of the neighboring houses would not be diminished. The hardship is that the setbacks are excessive and our ordinance provides for two acre lots.

Mr. Gentile made a **MOTION** to grant the variances with conditions; Mrs. Bartlett seconded. Motion passed 3 to 2. The conditions are: Install stormwater drip edge, Install permeable driveway, Contingent on Community Water approval, and Contingent on State Approved Septic System

MOTION/VOTE:

Mr. Gentile made a **MOTION** to approve this request for a Variance with conditions, Install stormwater drip edge, Install permeable driveway, Contingent on Community Water approval, and Contingent on State Approved Septic System, for property located at 26 Huttwil Drive, Map 104, Lot 1, Village District of Edelweiss to construct a house and septic system on a 0.20 ac parcel, in violation of Madison Zoning Ordinances Article V, Section 5.9E and Article IV, Section 4.5 C with the following relief:

1. The house to be 40 feet from the center line of Huttwil Drive, where 65 feet is required,
2. 25 feet from the rear boundary line, where 40 feet is required
3. 10.63 feet from a wetland 0.25 acres or larger in size, where 50 feet is required and
4. A waste disposal system to be 50 feet from a wetland, where 75 feet is required.

and submitted by the applicant as part of this hearing; seconded by Mrs. Bartlett.

Rollcall Vote: Mr. McAllister - No Mr. Lord – No Mrs. Bartlett - Yes Mr. Totman – Yes Mr. Gentile – Yes

MOTION PASSED by a vote of 3 to 2.

Mr. Lord read the provisions of the 30-day appeal period.

Case # 21-04 (Cont'd from April 2021) Variances are requested by Mark McConkey, agent for the Higgins Family Irrevocable Trust, for property located at 39 Interlaken Circle, Map 108, Lot 22, in the Village District of Edelweiss to construct a house, garage, breezeway and septic on a 0.79ac parcel with wetlands 0.25ac or larger in violation of Madison Zoning Ordinance Article V, Section 4.5 C, with the following relief:

1. The house to be 13.97 feet from wetlands where 50 feet is required,
2. The breezeway to be 31.07 feet from wetlands where 50 feet is required,
3. The garage to be 32.03 feet (to south) and 30.97 feet (north) from wetlands where 50 feet is required and

4. A septic field to be 55.85 feet (to south) and 51.31 feet (to east) from wetlands where 75 feet is required.

MEETING NOTICE: Mrs. Cyr reported that tonight's Public Hearing was posted on July 1, 2021 in the Town Hall upper and lower levels, 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 # 21-04: Mr. Gentile - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Totman - no.

RULES OF PROCEDURE/ WAIVER REQUEST:

Mr. Lord reviewed the Rules of Procedure for this Hearing and Mrs. Cyr reported that there are no waiver requests.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Totman - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Gentile - no.

SWEARING-IN: Mark McConkey and Jacob McConkey were sworn-in to testify for this hearing.

PRESENTATION/ BOARD QUESTIONS: Mr. McConkey agent for the applicant, explained the variances requested for the lot located at 39 Interlaken Circle, Map 108, Lot 22, in the Village District of Edelweiss. Mr. McConkey stated that they worked from a Horizons Engineering plan. The lot meets the State standard for poorly drained soil. Community water has been approved by VDOE. They will install stone lined drip lines. Mr. Lord suggested they move the house north to get away from the wetlands. Mr. McConkey stated that this is what the owner wants to build. Mr. McConkey presented a change in measurements. The house is 13.97' from the wetlands not 23.69' as presented in the application. Mr. Lord made a **MOTION** to proceed with the new measurements of 13.97' from the wetlands. Mr. Gentile seconded the motion. All in favor.

FINDING OF FACTS: Mr. Lord lead the Board in a review of the Findings of Facts:

1. Lot is .79 acres. Bounded by Interlaken Circle and Middle Pea Porridge Pond
2. Property is very long and narrow 67' +/- at the street and 103 +/- at the lake
3. There is 0.089 acre of poorly drained soil towards Interlaken Circle and 0.114 poorly drained soil towards the south, Altdorf Place
4. Lake frontage setback is met @ 75 feet
5. All property line setbacks are met
6. Septic system meets State standard of 50 feet but not Madison's requirement of 75 feet
7. Property has State approved Shoreland Permit
8. Property has State approved Septic System Permit with high efficiency system to be installed
9. Property will need certified foundation plan and property pins/monuments at corners of lot

DELIBERATION: Mr. Lord led a discussion of the 5 criteria for a Variance.

The closeness of the house is 13.97' to wetlands. The project meets state septic setbacks and is in the spirit of the ordinance. Substantial justice is done since the lot laid out is viable. Values of surrounding properties will not be diminished by the project. The 0.79-acre lot is long and narrow and the proposed use is reasonable.

MOTION/VOTE

Mr. McAllister made a **MOTION** to approve this request for a Variance, with the condition of monumentation of the lot corners, for property located at 39 Interlaken Circle, Map 108, Lot 22, in the Village District of Edelweiss to construct a house, garage, breezeway and septic on a 0.79ac parcel with wetlands 0.25ac or larger in violation of Madison Zoning Ordinance Article V, Section 4.5 C, with the following relief:

- 1) The house to be 13.97 feet from wetlands where 50 feet is required,
- 2) The breezeway to be 31.07 feet from wetlands where 50 feet is required,
- 3) The garage to be 32.03 feet (to south) and 30.97 feet (north) from wetlands where 50 feet is required and
- 4) A septic field to be 55.85 feet (to south) and 51.31 feet (to east) from wetlands where 75 feet is required.

and submitted by the applicant as part of this hearing; seconded by Mr. Totman.

MOTION PASSED by a vote of 5 to 0.

Mr. Lord read the provisions of the 30-day appeal period.

Case # 21-05 (Cont'd from April 2021) Variances are requested by Mark McConkey. Agent for Brian and Sheila Evangelista, for property located at 51 Oak Ridge Road, Map 104, Lot 70, in the Village District of Edelweiss to construct a house, deck, stairs and bulkhead on 0.23 ac parcel, in violation of the Madison Zoning Ordinances Article V, Section D & E with the following relief:

- 1) The house to be 52.95 feet from the centerline of Oak Ridge Rd where 65 feet is required and
- 2) The deck to be 16.40'; the stairs to be 10.0'; and the bulkhead to be 22.87' where 25' is required.

MEETING NOTICE: Mrs. Cyr reported that tonight's Public Hearing was posted on July 1, 2021 in the Town Hall upper and lower levels, 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 # 21-05: Mr. Gentile - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Totman - no.

RULES OF PROCEDURE/ WAIVER REQUEST:

Mr. Gentile reviewed the Rules of Procedure for this Hearing and Mrs. Cyr reported that there are no waiver requests.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Totman - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Gentile - no.

SWEARING-IN: Mark McConkey, Jacob McConkey, Brian and Sheila Evangelista were sworn-in to testify for this hearing.

PRESENTATION/ BOARD QUESTIONS: Mr. McConkey agent for the applicant, explained the variances requested for the lot located at 51 Oak Ridge Road, Map 104, Lot 70, in the Village District of Edelweiss. Mr. McConkey stated that the property will be accessed from Oak Ridge Road to be in compliance with 911 requirements. It is a very small lot .23 acres. The property has no wetlands. The property has a parking area of 12'x54'.

PUBLIC COMMENT: Mr. Gentile opened the hearing for public comment.

Hearing no public comment in favor or opposed to the appeal, Mr. Lord made a **MOTION** to close the public hearing; Mr. McAllister seconded. All Approved.

FINDING OF FACTS: Mr. Gentile lead the Board in a review of the Findings of Facts:

1. Very small lot of 0.23 acres on the corner of Oak Ridge Road & Lakeview Drive
2. No wetland issues
3. Size of lot is similar to adjacent lots
4. Proposed house is modest at 1047 sq ft
5. Other nearby houses on similar size lots have built into the side and back setbacks
6. Orientation of home to comply with 911

DELIBERATION: Mr. Gentile led a discussion of the 5 criteria for a Variance.

The House is small to minimize the cost with minimal variances due to the size of the lot and will not be contrary to the public interest. The home is appropriate for the size of lot and maintains the spirit of the ordinance. Substantial justice is done by providing the homeowner the opportunity to build a home on the narrow lot. There is no evidence that surrounding property values will be diminished. The building envelope is restricted by the lot size because the ordinance requires a larger lot size creating a hardship. The use is reasonable since the home will fit zoning for the area.

MOTION/VOTE:

Mr. Lord made a **MOTION** to approve this request for a Variance for property located at 51 Oak Ridge Road, Map 104, Lot 70, in the Village District of Edelweiss to construct a house, deck, stairs and bulkhead on 0.23 ac parcel, in violation of the Madison Zoning Ordinances Article V, Section D & E with the following relief:

- 1) The house to be 52.95 feet from the centerline of Oak Ridge Rd where 65 feet is required and
- 2) The deck to be 16.40'; the stairs to be 10.0'; and the bulkhead to be 22.87' where 25' is required and submitted by the applicant as part of this hearing; seconded by Mr. McAllister.

MOTION PASSED by a vote of 5 to 0.

Mr. Gentile read the provisions of the 30-day appeal period.

Case # 21-07 Variance is requested by Terri and John Candelarich for property located at 108 Edelweiss Drive, Map 41/ Lot 108, in the Village District of Edelweiss to extend an existing non-conforming deck 3'3" by 10' in violation of the Madison Zoning Ordinance Article V, Section 5.9C with the following relief:

- 1) The deck expansion will be 63' from the high-water mark, where 75' is required.

MEETING NOTICE: Mrs. Cyr reported that tonight's Public Hearing was posted on July 1, 2021 in the Town Hall upper and lower levels, 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 # 21-07: Mr. Gentile - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Totman - no.

RULES OF PROCEDURE/ WAIVER REQUEST:

Mr. Gentile reviewed the Rules of Procedure for this Hearing and Mrs. Cyr reported that there are no waiver requests.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Totman - no, Mr. Lord - no, Mr. McAllister - no, Mrs. Bartlett - no, Mr. Gentile - no.

SWEARING-IN: John and Terri Cancelarich were sworn-in to testify for this hearing.

PRESENTATION/ BOARD QUESTIONS: The Cancelarich's, the applicants, explained the variances requested for the lot located at 108 Edelweiss Drive, Map 41/ Lot 108, in the Village District of Edelweiss. They are requesting to expand their deck by 3'3"x10' to make their stairs safer. They are decreasing their driveway and creating impermeable areas with plants. They are removing the front deck from the house.

PUBLIC COMMENT: Mr. Gentile opened the hearing for public comment.

Hearing no public comment in favor or opposed to the appeal, Mr. Lord made a **MOTION** to close the public hearing; Mrs. Bartlett seconded. All Approved.

FINDING OF FACTS: Mr. Gentile lead the Board in a review of the Findings of Facts:

- 1 Lot is long narrow at 0.43 acres with existing house and deck.
- 2 Overall decreasing the impermeable surface area by removing the front deck
- 3 Improves the safety of the deck and stair system
- 4 Deck is already in the 75ft setback area. This increases non conformity by 3ft to 63'
- 5 Work being done to improve the environmental impact on property (less deck, less driveway, etc.)
- 6 Improves curb appeal from the lake

DELIBERATION: Mr. Gentile led a discussion of the 5 criteria for a Variance.

The variance will not be contrary to the public interest because it will make the deck safer. The owners are proving that they are responsible lake front people. The values in the area will not be diminished by the improvements proposed. The renovation should increase the value. By not granting the variance it would restrict the use of the house. The proposed use is reasonable because it will improve the safety in accessing the home.

MOTION/VOTE:

Mr. McAllister made a **MOTION** to approve this request for a Variance for property located at 108 Edelweiss Drive, Map 41/ Lot 108, in the Village District of Edelweiss to extend an existing non-conforming deck 3'3" by 10' in violation of the Madison Zoning Ordinance Article V, Section 5.9C with the following relief:

- 1) The deck expansion will be 63' from the high-water mark, where 75' is required; seconded by Mrs. Bartlett. **MOTION PASSED** by a vote of 5 to 0.

Mr. Gentile read the provisions of the 30-day appeal period.

ZONING ORDINANCE DISCUSSION: Mr. Ohlson spoke about the zoning ordinance changes. The discussion will continue regarding 1.3b and ADU's at the next Planning Board meeting August 4th, 2021.

ADMINISTRATION: The Board would like to schedule a meeting workshop with Attorney Chris Bolt.

ADJOURNMENT:

Mr. Totman made a MOTION to adjourn the meeting; Mr. McAllister seconded. All approved.
The meeting adjourned at 10:32pm.

Respectfully Submitted,
Kim Cyr
Land Use Administrator