



**TOWN OF MADISON  
PLANNING BOARD  
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**PLANNING BOARD MINUTES  
December 7, 2022**

**MEMBERS PRESENT:** Chairman Marc Ohlson; Paul Marks; Dave Cribbie; Paul Littlefield; Paul Marks, Charlie Allen; Selectman Josh Shackford; Karl Nordlund; Alternate Jay Buckley; Alternate Phil LaRoche

**MEMBERS EXCUSED:** None

**OTHERS PRESENT:** Town Administrator Linda Shackford; Katharine Young, Land Use Boards Administrator; MadTV Donna Atkins; Shawn Bergeron; Bill Dempster; Kathy Koziell; Nick Borelli; Doug Melder, Rajan Shrestha, Paul McKenna; Judy Taylor; Nicole Nordlund and other members of the public

**CALL TO ORDER:** Chairman Ohlson called the meeting to order at 7:00 PM.

**POSTING DATES & LOCATIONS:** Notice was posted at the Madison and Silver Lake Post Offices, in the Madison Town Hall - upper and lower levels on November 16, 2022.

**ELEVATION OF ALTERNATES:** There were no elevations as a full board was present.

**APPROVAL OF AGENDA:** **Motion** by Cribbie, seconded by Marks to approve the agenda as written. The motion passed **unanimously**.

**APPROVAL OF MINUTES:** Marc Ohlson tabled the approval of the November 2, 2022 minutes to the January 4, 2023 meeting. The motion passed **unanimously**.

Ohlson opened to public comment.

**PUBLIC COMMENT:** Kathy Koziell of Lakeview Drive read the proposed ordinance and explained that the ordinance the way it is written would put an unbelievable burden on all departments, the Selectmen, Fire Chief, Police Department, Zoning Board of Adjustment, Planning Board, Administrative staff, Code Enforcement Officer, DPW and Superintendent of Schools. Koziell further asked the Planning Board if they have taken into consideration the impact this zoning ordinance on department heads and are the department heads in favor of this ordinance.

Paul McKenna of Oak Ridge Road stated his concerns and feels that the special exception is a self-interest of the Planning Board members and will increase taxes and there is no benefit to the town and further asked the board to reconsider and withdraw the proposal and explained he is part of a group called Preserve the Community 03849.

Rajan Shrestha of 3 Upper Lakeview Drive stated he is in favor of the regulations but if there are no STR's we are saying to the tourists they are not welcome and Shrestha believes STR's do generate income.

Doug Melder of Oak Ridge Road thanked the Planning Board for their time. He further talked about the data that was received from Air-DNA which is incorrect. Air-DNA stated their data is incorrect as they are unable to distinguish on a calendar the difference a homeowner blocks their calendar and on average it is 40% to 60% incorrect. Melder believes they need to figure out how to make the regulations stronger.

Shawn Bergeron of Forest Pines Road stated he has no data to share but that there are two sides to STR's, you either love them or hate them. Bergeron stated he believes the Planning Board is trying to put a decent definition of dwelling unit into the zoning ordinance and was passed by the voters of Madison and anyone who has a STR since the adoption of the ordinance is most likely illegal and ones that predate this remain in question. Bergeron further explained that the Planning Board is creating an ordinance that will be considered by the voters. Bergeron stated he would like to see people let the Planning Board finish their work and then people can vote on it whether to accept it or not. Bergeron has made suggestions and improvements to the new definition to Appendix A Short Term Rental-A and add a new section 5.13 Short Term Rentals.

Judy Taylor of Little Shore Drive stated she is sad with all the fighting and there is no community spirit and the fighting needs to stop and everyone needs to get together as a group and look at the regulations to see if they are worthy and either adopt them or not and need to give the voters the opportunity to vote.

Nicole Nordlund of East Madison Road stated the \$100,000 monitoring position is inaccurate. There can be affidavits of fire and safety and the position for STR monitor could be done two hours a week not 40 hours. She is currently cleaning an STR to pay her taxes and feels this is an opportunity for people in the town to make money. She further stated that the increase in students would generate money to the budget. She stated that the regulations were very confusing at the last election time and she wants the Planning Board to consider still working on the regulations and word it "will the voters of Madison vote to approve regulations proposed by the Planning Board to include but not limited to fire and safety, occupancy level, sanitation, restrictions and general nuisance".

Nick Borelli of Lakeview Drive stated he feels that STR's make more money than people do in a year and feels STR business owners will change the town and he would like to keep the rural character that being of retirees and young families and that children bring life to the town.

Bill Dempster of Doe Drive stated the Planning Board needs to align with the town hall as a unified front and that the Town of Madison is going to be sued. Dempster is not in favor of the warrant article. Dempster further stated the Planning Board needs to send a message to the residents, take a step back and see what success the Selectmen have.

Ohlson closed the public portion of the hearing and opened the Board's deliberation.

#### **PUBLIC HEARING:**

Ohlson opened **Case # 22-05 - Boundary Line Adjustment** – Craig Bailey of Bailey Engineering as Agent for Thomas and Margaret Jones, Trustees and Scrub Oak Scramblers, Inc. for Map 234 Lots 049 and 050 proposes a Boundary Lot Line Adjustment at 368 Pound Road and vacant land known as Map 234 Lot 049 & Lot 050, respectively. The application requests conveyance of land in order to provide parking and make the lot conforming in the Rural Residential Zone.

Craig Bailey of Bailey Inc., Agent for Thomas and Margaret Jones, Trustee and Scrub Oak Scramblers, Inc. referred the Planning Board to the Boundary Line Adjustment Plan and explained that the clubhouse has been on site since early 1980's and is currently on a one-acre lot and the proposal is to expand the size of the site from one acre to three acres by adding two acres shown as Parcel A on the Boundary Line Adjustment Plan. Bailey further stated that all the corner pins have been set but two in the back need to be set and the front pins have been set and the plans have been generated. Bailey referred the Planning Board to Sheet 2 of the Boundary Line Adjustment Plan and further stated that Pound Road has a unique right-of way and is generally a three-rod right-of-way and the proposal is to extend the frontage 140' down Pound Road and then turn in to the woods Southeasterly and go back into the property 306 feet and then turn 90 degrees and enter into the abutting property line. There are some wet and low areas on the property and have identified it as wetland area and he has asked DES for a waiver.

Ohlson asked the Planning Board for any comments.

Buckley asked about parking. Bailey stated on site there are approximately 15 parking spots and there is no proposed expansion for parking in the future.

Ohlson asked for any public comments.

Dave George stated the people donating the land has requested a buffer and anything that is done is not in view of the street.

Bergeron and Abutter Mohla (Tax Map 234, Lot 48) both reviewed the BLA plans. Bergeron asked if Scrub Oaks lot is one acre parcel and doing a Boundary Line Adjustment and not creating a new lot of record but expanding the parcel to three acres total Scrub Oak Scramblers is in a rural residential zoning district and is an existing non-conforming use. Bailey stated it is an existing non-conforming lot of record. Bergeron stated there are two different things that it is an existing non-conforming use. Bergeron asked Bailey if he is looking to expand the non-conforming use onto the expanded parcel. Bailey stated the use will not be changing and will still be for the snowmobile club to use. Bergeron asked even onto the expansion parcel Bailey responded of course. Bergeron stated that is the expansion of a non-conforming use.

Abutter Mohla asked Bailey if they are going back and across does it extend the boundary even further down his property line. Bailey stated that currently the sideline between Mohla and Scrub Oaks is 170 feet and would be extended approximately 160 feet. Mohla asked if there will be any parking on his property line. Bailey stated there would need to be a crossing of the low area and there would likely be no parking. Mohla wanted a permanent answers Bailey stated just the Boundary Line Adjustment is being done at this time. Mohla asked if the pins have been set. Bailey stated only grade stake and they are shown on the Boundary Line Adjustment Plan.

Bailey stated the design has to go the Planning Board for approval.

Ohlson closed the public comments.

Ohlson closed the public portion of the hearing and opened the Board's deliberation.

LaRoche asked Ohlson what is the non-conforming use? Ohlson was not sure and stated he could not address that and that would be for another day.

L. Shackford asked if they wanted a stipulation about the pins being set before this plan is signed

Ohlson stated yes.

**Motion** by Allen, seconded by J. Shackford to approve the Boundary Line Adjustment with the Chairman not signing the plan until permanent rebar on the two back corners are set. The motion passed **unanimously**. Cribbie abstained as he is a member of the club.

### **OLD BUSINESS:**

Ohlson stated there will be no public comment and that this is a public meeting but not a public hearing.

Ohlson stated **1.3B is an Expansion of Non-Conforming Use** which the board was a split last year and this would be what the lawsuit of Connelly v. Town of Madison. Ohlson also stated the Planning Board changed the definition of footprint, so there were two definitions of footprint and the board proposed last year to erase 1.3b from their regulation.

Ohlson stated the Planning Board needs to decide whether to put it on the ballot again this year and have a public hearing in January when they have the public hearing on STR's if the board so chooses and whether to erase 1.3b again.

Cribbie stated that all towns have some version of non-conforming use in their regulations that they allow non-conforming structures to be modified being less non-conforming than they currently are and that was the reason discussed on the final vote, that Allen was not present for, and that is what caused the split decision of the board and it changed a few people's votes. Cribbie further stated because they were past the public hearing process and if they wanted to do anything further, they would not make it to the ballot because of the information that came to light that night.

Ohlson read to the board, an email dated November 9, 2022 from Attorney Laura Spector-Morgan as follows:

Section 1.3.B of the Madison Zoning Ordinance provides:

B. Any structure existing at the time of the original passage of this Ordinance, March 1987, which does not conform to the maximum height limitations and /or minimum setbacks, shall have the right to continue indefinitely or may be demolished and reconstructed within one (1) year.

Legally established structures, which do not conform to present setback requirements, may be expanded in size, provided the addition or expansion complies with current setback requirements, or:

The setbacks to the expanded structure are not less than the non-conforming setbacks to the original structure; and

The expanded structure is no closer than the existing non-conforming structure to the high-water line; and

The expanded structure is no taller above sea level than the highest roofline of the existing structure;

Any such expansion shall be limited in size to a total of fifty-percent (50%) of the square foot area of the first floor footprint of the existing structure as of March 2007, not including decks, chimneys, etc.

Ohlson asked the board if it is their intention to allow a 50% expansion of the non-conforming area or is it the intention of the board to allow no expansion of the non-conforming area?

Cribbie stated he thought the intention of the original language was to allow the expansion up to 50% of the non-conforming portion of a building and the Supreme Court ruled not only the non-conforming portion but the entire building. Cribbie is not in favor of taking 50% of an entire building that is non-conforming as only a small portion would be non-conforming and banning all expansion would cause an issue with someone expanding and blocking views etc.

LaRoche asked how do you determine 50% of a non-conformance? Cribbie stated first floor footprint, whatever portion is too close to the lake or setback. Littlefield stated that some properties around the lake are non-conforming. Littlefield stated that buildings would need to be razed up. Cribbie agreed and stated someone could go to the ZBA for a hardship to raze the building to deal with water and filtration issues. Cribbie further stated people should not go up just for another view of the lake.

Marks stated that if a portion of a building is non-conforming then all of it is non-conforming. If you do not have a setback on the front from the lake to the back, do you have it on the side and does that make the structure non-conforming?

Littlefield stated for example that the 50% setback from lake and the house is 35' from the lake and 40' deep only first 15' is non-conforming and the rest is in conforming territory and it does not make the whole structure non-conforming. Cribbie stated that if the board does not allow it then people will tear down their camps and build to the maximum height and width, a bigger beautiful home and can block the view for people across the lake.

Nordlund stated you cannot build closer to the lake.

Allen stated people might like where their house is and can go to the ZBA and plead their case.

Ohlson stated that this is without a variance versus with a variance. Ohlson further stated it went to the Supreme Court and there was essentially a split non-binding decision. Ohlson asked Linda Shackford if it had been remanded, it has not and Ohlson stated a decision really has not been made.

Ohlson deferred to Bergeron for his advice. Bergeron stated all towns, except for Tamworth, who has no zoning, have some provision that allow expansion of non-conforming use. Bergeron stated Littlefield's interpretation as stated above is pretty accurate in that you could have part of a structure that is conforming and part non-conforming. Bergeron stated he is happy with 1.3b depending on the day.

Ohlson stated there are two definitions of footprint that need to be straightened out and he will get the language from Attorney Spector-Mortgage for the public hearing scheduled for January 4, 2023.

Linda Shackford asked if there are no changes to 1.3b.

**Motion** made by Marks, seconded by Nordlund to clean up the definition of footprint problem.  
**Motion was not voted on and did not pass.**

Ohlson asked should it be the least footprint or more expansive? Ohlson stated they included decks and chimneys. Ohlson stated the board tried to do just 1.3b but the ZBA's attorney said the more restrictive applies. Allen stated if you start saying decks are not part of the footprint that can be an issue. Allen further stated that in giving out building permits you have to give a footprint and that you have to have a footprint for 1.3b and it has to be the same for the building permit including decks. Cribbie stated to remove the word "footprint" from 1.3b. LaRoche asked if the definition of

footprint should include chimney eaves and chimney? Cribbie stated to use a different word and not footprint. Ohlson asked what is the board's intent? Allen stated if you do one footprint for 1.3b it has to be the same as the building permit, or you now have two footprints. Littlefield stated there should be one definition of footprint to include chimneys, eaves and decks, air conditioners sitting outside. Allen stated if you have a building permit it will tell you what the footprint is. LaRoche stated that for real estate and tax card purposes, the footprint does not include decks. Allen stated you could not get a building permit or any permit without the footprint. Allen further stated that if you have a building permit application and change the footprint now you have created a conflict between two permits. Linda Shackford asked if you could change the definition of footprint that the definition does not pertain to 1.3b. Cribbie suggested to remove the word "footprint" from 1.3b and replace it with something else.

Ohlson read to the board, an email dated November 9, 2022 from Attorney Laura Spector-Morgan as follows

The definition of footprint is:

**FOOTPRINT** – The outermost exterior dimensions of a structure as viewed from above, including any permanent extensions such as balconies, decks (attached or unattached), steps, overhangs and chimneys. This footprint is not measured in volume.

You have inquired as to how these two sections interact. When two provisions of the zoning ordinance conflict, as these do, the more stringent applies. So you would not include any permanent extensions such as balconies, decks (attached or unattached), steps, overhangs and chimneys when identifying the square footage of the first floor footprint to calculate the permissible expansion.

If that was not the intention of the planning board, you'll need to amend 1.3.B as well.

Cribbie stated the word "footprint" needs to be removed from the final paragraph of 1.3B. Cribbie stated call it "First Floor Building Envelope". Ohlson stated no as that would include volume. Ohlson asked the board what is their intent? Cribbie stated the intent is to use a different word so footprint does not have to be considered. Ohlson stated to allow the building itself, not the decks. Cribbie stated yes for 1.3B. LaRoche stated that tax card uses "gross living area" and maybe use that and decks, balconies and overhangs are a separate identity on the tax card.

J. Shackford stated at the last Selectmen's meeting they were asked by Bob Boyd, Code Enforcement Officer the same question about footprint definition and which way to go on this. The Selectmen told Boyd to contact Attorney Cordell which Boyd has and Attorney Cordell is supposed to provide Boyd in writing on how to proceed. J. Shackford stated there are different answers from Planning Board Attorney, ZBA Attorney and Town Attorney. J. Shackford stated Supreme Court was a split decision.

Ohlson stated he would go back to Attorney Spector-Morgan for language for the January, 2023 meeting.

### **Section 5.13 Short Term Rentals by Special Exception:**

Cribbie stated there was a recommendation for changing language in the second Item #1., to now read "within New Hampshire" and he agrees with this change but not the proposal.

Ohlson read the December 7, 2022 Meeting Text/modifications in red font added by Shawn Bergeron for

Planning Board Approval as follows:

Add a new definition to Appendix A

**SHORT TERM RENTAL-A** non residential dwelling unit where lodging with sleeping accommodations is provided for compensation for less than 185 consecutive days.

Add a new section 5.13 **Short Term Rentals**

Short term rentals shall be permitted in all zoning districts without site plan review upon the issuance of a special exception by the Zoning Board of Adjustment. A special exception shall be granted only if the Zoning Board of Adjustment finds that the following criteria are met:

1. The operation and appearance of the Short Term Rental are compatible and not offensive, injurious, or a nuisance to its neighborhood and will not substantially impact the value of the abutting properties.
2. The Short Term Rental will not create traffic or other safety hazard.

All Short Term Rentals shall be subject to the following conditions and requirements:

1. The owner of the Short Term Rental shall provide the name, address, and telephone number of a contact person that resides within ~~the state~~ New Hampshire who is authorized to accept service of process for any legal proceeding brought against the owner of the property.
2. The owner of the Short Term Rental shall provide the name, address, telephone number, and e-mail address of ~~two~~ **an** individuals or management companies **located in the State of New Hampshire** that can be contacted in the event the owner cannot be contacted. Said individuals or management companies shall be authorized **by the owner of the Short Term Rental** to act on behalf of the property owner **on any/all decisions relative to occupancy and/or use of the Short Term Rental.**

Ohlson asked the board if they really need two individuals or management companies and is it the owner and a single management company or one contact person? Nordlund stated it should be one contact person and one property manager and not two property managers. Littlefield stated he read second #2 as two contact people within a management company so if one is on vacation the other can cover and it is important to notify the owner of the property. Marks stated it should be the owner and the second person in area locally. Cribbie stated that it does not explicitly state that either one of the individuals has to live here and can live anywhere the way it reads now. Allen stated to add they have to live in New Hampshire. LaRoche stated it is important to notify the owner whether you have a property manager or not. Nordlund is in favor of one owner and one local contact. Ohlson stated the change would be a New Hampshire Management Company. Cribbie suggested to add Carroll County.

L. Shackford asked Ohlson what the changes are for recording purposes in the minutes. Ohlson stated this will go to Attorney Spector-Morgan for review but for the minutes, the intent is to have one owner and one local contact for section 2.

3. All Short Term Rentals shall comply with the NFPA 101 Life Safety Code requirements for One and Two Family Dwellings and shall be inspected by the Town of Madison Fire Department **or a Madison Fire Department approved third-party inspection agency, individual or company** prior to approval and every two years thereafter to ensure compliance. At a minimum, the following shall be required:

Discussion: Cribbie asked if anyone has heard if this was legal every two years thereafter to ensure compliance? Ohlson stated he was not sure. LaRoche stated he has heard that you cannot require this of one type of home, dwelling or use and not another so if we can do that great. LaRoche further

stated that other towns are using affidavits so there is no burden on the fire department official to make these inspections so they put NFPA 101 in place and the burden is on the owner. LaRoche stated that a real estate attorney stated you cannot do that but he is unsure and this is not being done for long term rentals. Cribbie stated it was brought to his attention that it was not the inspections upfront but every two years may not be legal. Buckley stated if we find out from Attorney Spector-Morgan if every two years is either legal or not necessary and have the signed affidavit so the burden is placed on the owner that they are in compliance with the recommendation of NFPA 101 Life Safety Code requirements. LaRoche deferred to Bergeron for his input whether the affidavit puts onus on the owner and LaRoche thought Bergeron helped to write the ordinance in Jackson. Bergeron stated he needs to open up the Jackson Ordinance. Cribbie stated from experience as a firefighter they have gone into single family homes and there are life safety violation codes and there is not much they can do about as they are single family homes. Cribbie also stated whatever way the board goes, you cannot do much with single family homes and if they are not in compliance and if the owner lies on the affidavit what recourse does the fire department have? Allen stated he is not a fan of the affidavit.

Ohlson asked Cribbie what would happen if the Fire Department went into a home with a woodstove installed incorrectly? Cribbie stated the Fire Department can red-tag it and until it has been serviced same goes for hot water heater, stove, furnace etc. Cribbie stated that Madison has a two-tag system, a big tab on the device and a small tear off tag that is stapled to the fire report and if the numbered tag has not been returned to the Fire Department by a person licensed to fix the issue there is a follow up.

Ohlson read the requirements below to the board as follows:

- a. Smoke detectors shall be installed and properly functioning in all required locations, including but not limited to each bedroom.
- b. Carbon monoxide detectors installed and properly functioning in all required locations.
- c. Primary exits and a secondary means of escape shall be provided and maintained.
- d. No basement or other below-grade space shall be used as a sleeping area unless compliant exits and a secondary means of escape are provided and maintained.
- e. A properly sized and fully functional ABC fire extinguisher shall be installed in an obvious location on each level of the Short Term Rental.
- f. The maximum number of people that the Short Term Rental may be advertised to accommodate shall be two people for each legal bedroom plus two additional people. The number of legal bedrooms shall be determined by the building permit or, if the dwelling unit was constructed prior to the requirement for a building permit, by the number of bedrooms on the approved State of New Hampshire subsurface (septic) approval.
- g. In the event a Short Term Rental is proposed for a property that does not have a State of New Hampshire subsurface (septic) approval, a subsurface system meeting current State of New Hampshire standards shall be designed and approved for construction by the NH Department of Environmental Services and submitted to the Zoning Board of Adjustment as part of the special exception application. Said approved design shall be maintained on file as part of the special exception approval, but shall not be required to be constructed unless the existing subsurface system fails, at which time, the approved subsurface system shall be constructed and all occupancy of the structure shall terminate until an Approval for Operation for the replacement system is issued by the State of New Hampshire and provided to the Town of Madison.
- h. Parking for 1.5 vehicles per bedroom shall be provided in a designated parking area on the same property as the Short Term Rental, and all occupants shall be required to park in the designated area.
- i. The owner of a Short Term Rental shall provide proof of a current NH Rooms and



- Meals Tax license number.
- j. The owner of a Short Term Rental shall be responsible for:
    - i. Removal of trash and legal disposal of the same off premises.
    - ii. Ensuring that all parking by renters is limited to the property.
    - iii. Ensuring compliance with the specified occupancy limits.
    - iv. Any other site specific conditions imposed as conditions of the special exception.

LaRoche finds (h) 1.5 vehicle awkward.

Jay Buckley stated all this text if it goes to ballot or something similar in length, it may cause quite a line at town voting spending time reading the text before they check off yes or no. He asked procedurally and as Nicole Nordlund stated, can there an abridged sentence “are you in favor of voting on Short Term Regulations?” and a copy of the lengthy text be attached inside the voting booth. Ohlson stated it would be on the ballot as a Warrant Article.

LaRoche asked Ohlson if they could now follow up with Bergeron about the Jackson or Bartlett Ordinance as to fire and safety. Bergeron stated the Jackson Ordinance, this section was written by Peter Malia, Esquire now known as Judge Malia. LaRoche stated he thought Bergeron helped write this part of the Jackson Ordinance which provided signatures of affidavits to certify compliance with NF PA 101. Bergeron read from the part of the Jackson Ordinance as it pertains to fire and safety to the board. LaRoche stated it is identical to Madison’s and asked Bergeron did you not offer that for Jackson? Bergeron stated this was written by Judge Malia. LaRoche stated that Bergeron has confirmed there is an affidavit provision and asked if there is no Fire Marshall or Chief inspection required? Bergeron believed at the time this was written there was not and does not believe it has been changed. Allen stated he is not a fan of the affidavit.

Bergeron stated LaRoche brought up a good point and Bergeron added the proposed ordinance the board is working on Bergeron has added “Madison Fire Department third party Inspection Agency or individual company. Bergeron asked if the Madison Fire Department has a Level 1 Inspector and is he certified? Cribbie stated he is not sure. Bergeron stated there are only two nationally certified fire protection specialist in Carroll County that being himself and his Project Manager, Kate. Cribbie stated that Bergeron and his project manager are the only two in the area that do it professionally for a business but that there are at least 20-30 people in the area that have Fire Inspector 1 and 2. Buckley stated from last month’s meeting former Fire Chief Judkins’s recommendation is that CO detectors and smoke detectors should be professionally installed. Bergeron stated Chief Judkins recommendation is it be a monitored system. LaRoche said there has to be something done by either affidavit or inspection and monitoring would be burdensome.

Buckley stated there is some confusion about the wording non residential dwelling unit. Ohlson stated it is not a residential dwelling unit and Buckley replied that he lives at his short term rental.

Cribbie stated the ordinance is very clear and everyone can have a different opinion.

Buckley stated that is the responsibility of this board to write regulations and left voters to vote upon them and he read the Planning Board’s Master Plan to the Board. Marks stated 185 consecutive days and notes from last meeting was 185 or less than 30. Buckley stated the 185 days complied with NH Meals and Rooms Tax.

Ohlson referred to J. Shackford, Chair Selectmen and asked him how was the enforcement going? J. Shackford stated the process has been started and sent out 15 letters and received three responses. L. Shackford stated definitely one from Eidelweiss and the other three were not. Ohlson asked appealing administrative decision? L. Shackford stated the letter basically said “please come into compliance and let us know that you plan to come into compliance” this is what the first letter said or potentially the Selectmen can start the fine process. L. Shackford stated from what she understood that once they get enough responses or non-responses the second round of letters will go out asking what people’s stances are. L. Shackford confirmed the letters were sent Certified Mail, not Return Receipt. Olson stated that is the other half the battle to enforce the regulations as they exist and the regulations the Planning Board imposes and the regulations will give them a path and does mean they will meet the requirements of a special exception.

Buckley asked Bergeron if he was looking to put this new language to 5.9A on this year’s warrant and Bergeron stated yes, he was looking for the board’s approval.

Ohlson asked the board if there was any more discussion and there was none.

Ohlson brought up Churchill Road and that Bergeron is struggling with a minimum setback issue. Bergeron stated not only applies to Churchill Road and what lead to this is his client Hillary Twigg-Smith owns the only buildings located on a Class VI Road as identified in the Class VI Road Study known as Churchill Road. Bergeron further stated that in the request to the ZBA, they were looking for approval for a Bed and Breakfast and the ordinance as it presently reads, “In a rural residential district, a Bed and Breakfast is allowed by way Special Exception”. Bergeron then read the requirements for conditions “Minimum setbacks for Bed and Breakfast facilities shall meet the setback requirements of 5.9A and C. Bergeron then directed the Board to 5.9A “All structures and buildings within the Rural Residential and Village districts shall be set back a minimum of seventy-five (75) feet from the center line of the roadways other than culs-de-sac, and a minimum of twenty-five (25) feet from all other property boundaries. Bergeron stated the issue is Class VI roads are at one point in time presently subject to gates and bars within the statute and the town may use it or not. Bergeron stated they are antique and old roads. there were not 100-foot driveways. Bergeron’s change that he is proposing is “5.9 A. All structures and buildings within the Rural Residential and Village Districts shall be set back a minimum of seventy-five (75) feet from the center line of all Class I through Class V roadways and 40’ from the center line of Class VI roadways”. Bergeron further stated he believes this Class VI Road Study has made its way to court two or three times and failed. Bergeron thinks Class VI Road Study is flawed. Cribbie asked where did the 40’ from the center line of Class VI roadways came from in Bergeron’s revision of 5.9A? Bergeron stated it is a reasonable figure as to how things were in the past. Bergeron thinks this definition will resolve future 5.9A issues in the future.

Buckley asked Bergeron if he was looking to put this new language to 5.9A on this year’s warrant and Bergeron stated yes, he was looking for the Board to consider it.

Ohlson asked the Board for a motion.

**Motion** by Allen, seconded by Buckley to add Bergeron’s language to 5.9A. The motion passed **unanimously**.

Cribbie asked if he could get a copy of all Class VI roads. Linda Shackford will get list to Cribbie.

Ohlson will clean up the language on 5.13 Short Terms Rentals and run the 5.9A language as marked

“Draft for Consideration” by Attorney Spector-Morgan.

Ohlson stated the public hearing on 1.3b and Special Exception 5.9 will be reviewed at the January 4, 2023 meeting.

**CHAIRMAN’S REPORT** – There was nothing to report.

**SELECTMAN’S REPORT** – There was nothing to report.

**CORRESPONDENCE/ADMINISTRATION:** There was nothing to report.

**ADJOURNMENT: Motion** by Cribbie, seconded Marks to adjourn. All Approved. The meeting adjourned at 9:03 pm.

Respectfully Submitted,

Kate Young  
Land Use Boards Administrator