



**TOWN OF MADISON  
PLANNING BOARD  
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**PLANNING BOARD MINUTES  
October 4, 2023**

**MEMBERS PRESENT:** Marc Ohlson, Chair, Paul Marks, Vice Chair; Dave Cribbie, Karl Nordlund; and Adam Price – Selectmen’s Representative

**MEMBERS EXCUSED:** Paul Littlefield, Jay Buckley and Phil LaRoche, – Alternate

**OTHERS PRESENT:** Katharine Young, Land Use Boards Administrator; MadTV Aysia Morency, Keriann Roman, Esquire, Arthur Charbonneau, James H. Botkin, Alison Arthur, Jay and Noreen Bisio and Ralph Johnson

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

**ELEVATION OF ALTERNATES:** There were no alternates present to elevate.

**APPROVAL OF AGENDA:** **Motion** by Cribbie, seconded by Nordlund to approve the Agenda as presented. The motion passed **unanimously**.

Ohlson asked the Board for a motion to approve the September 6, 2023 minutes as written.

**APPROVAL OF MINUTES:** **Motion** by Nordlund, seconded by Marks to approve the September 6, 2023 minutes as written. The motion passed **unanimously**.

**PUBLIC COMMENT:** Ohlson opened Public Comment. There was none so Ohlson closed Public Comment.

**PUBLIC HEARING:**

Ohlson read aloud **Case #23-04 – Continued (June 7, 2023, July 5, 2023, August 2, 2023 & September 6, 2023) - Boundary Line Adjustment** – for agent Wesley Smith, of Horizons Engineering, for property located at Grachen Drive, Tax Map 113, Lots 55 & 56 owned by William and Lynne Oxford.

**POSTING DATES & LOCATIONS:** Notice was posted on September 21, 2023 at the Madison and Silver Lake Post Offices, in the Madison Town Hall – upper and lower levels.

Young stated she received an email today at 3:09 PM from Wes Smith, Agent for **Case #23-04** requesting the case be continued until the November 1, 2023 meeting due to the fact and Attorney Matthew Weegar of Alpine Title Services, Inc., is still working on the title issue and again in Smith’s email he stated he will be submitting a plan to the state for state subdivision

approval as long as Attorney Weegar agrees that this will fix the title issue and then Smith will be returning to the Planning Board with that approval in hand.

**Motion** by Marks, seconded by Nordlund to continue **Case #23-04** to the November 1, 2023 meeting at 7:00 pm at the Madison Town Hall, lower level. The motion passed **unanimously**.

Ohlson read aloud **Case #23-06 – Preliminary Review** for Alison Arthur, Owner, 551 Modoc Hill Road, Tax Map 222, Lot 14 for Subdivision of Lot 14 (containing 9.34 acres) into two lots being 4 acres and 5.34 acres.

Arthur Charbonneau asked the Board if he could do a Boundary Line Adjustment since he owned Lot 14 previously. Charbonneau further stated that he owns Lot 19 on the corner of Modoc Hill Road across the street from Arthur's property and he further stated that Arthur has agreed to convey four acres into his name which would leave Arthur with five acres +/-.

Charbonneau stated a perk test has previously been done on the property in 2012 as a house was built on the far side of the lot. Again, Charbonneau asked the Board if he could do a Boundary Line Adjustment and include the four acres with his Lot 19? Ohlson stated you cannot create a lot with a Boundary Line Adjustment and if Charbonneau wants to create a lot, he will need to do a subdivision. Ohlson explained the Planning Board's definition of a lot includes 200 feet on a Class V or better road.

Ohlson asked the Board if they have any questions. Cribbie asked if Charbonneau has looked at the setbacks for the existing buildings on what would be Lot B as shown on the sketch Charbonneau provided with his Preliminary Review and asked Charbonneau if he is ok with those. Charbonneau stated that Arthur's north boundary will be approximately 100 feet or more to square off the four acres and that Arthur has about 200 feet to the boundary on the right as well as over 100 feet from the road. Cribbie stated he expects there will need to be another perk test done on Lot A.

Ohlson stated that the property needs to be surveyed. Young confirmed with Charbonneau once he has the survey completed, he will get the survey done and then submit to the Planning Board the Subdivision of Land application.

**Introduction of Keriann Roman, Esquire** – Attorney Roman introduced herself to the Board officially and stated she has reviewed the Master Plan and the Zoning Ordinance and stated she is at the Board's service.

### **OLD BUSINESS:**

#### **Definitions:**

##### **1.3b:**

Attorney Roman stated after review of the definitions, she believes the issues the Planning Board is having is with non-conforming uses and structure definition (1.3b), non-transient occupancy definition and single-family house definition. Attorney Roman also added how dwelling unit is defined. Attorney Roman stated she made some notes about the Zoning Ordinance that she wanted to share with the Board. Attorney Roman stated that in the residential district there should be one residential unit per lot or specifically, to allow more than one residential unit per lot is a little vague. Ohlson stated ADU's are allowed. Attorney Roman further stated the Wetlands Buffer state law has been updated slightly and it does not change anything but some of

the terms could be changed and she could do a very short memo. Attorney Roman stated the wireless communication tower could use a slight update and typically, if they are doing modifications, they require a much faster turn-around process and updating this would make the Zoning Ordinance compliant. She further stated in the Workforce Housing section, some of the references do not actually reference the correct information and this would be fixing some of the citations she does not believe the Workforce Housing section requires a Zoning Amendment because it is just fixing things like referencing sections that were misstated but the rest would require a Warrant Article. Attorney Roman stated she did not see anything big legally concerning. Ohlson stated the Board struggled over 1.3b. Ohlson stated they had a case that went to court and the Board struggled over the expansion of non-conforming use in setback areas and the Board has tried to figure it out. Cribbie stated they were operating under poor intel and the Board thought that local towns also were having similar language in their regulations to what we have but since then, we cannot find anyone that does and he asked Attorney Roman if anyone she represents has similar language to how the Planning Board's is written? Attorney Roman stated that none of her towns allow expansion in terms of setbacks the way it was proposed to the Planning Board. Attorney Roman stated that maybe the confusion is because of Silver Lake. Attorney Roman stated that to the shoreland buffer from the reference line of the shore line, the state law says for state purposes in terms of that buffer, that non-conforming pre-existing uses can expand into the setbacks provided that the overall use or structure provides less of a non-conformity. Attorney Roman stated most of her towns do have language about non-conforming uses and she believes the Planning Board should keep it but it should be amended. Attorney Roman stated when there is a zoning amendment, she could do a one-page memorandum showing current language and she would redline what is better language and why and then the Board can move it through the Public Hearing process. Attorney Roman asked if the Board would like her to do this. The Board agreed.

Ohlson stated they will go into Non-Public Session for the Voluntary Merger for Pomeroy Trails End Trust at the end of the meeting.

**Master Plan:** Young stated she emailed the link to the Board Members. Cribbie asked that Young email the Master Plan in Word to all Board Members.

### **NEW BUSINESS:**

#### **Voluntary Merger of Lots – Ralph Johnson**

Ohlson stated to the Board that Ralph Johnson wants to merge two lots together with one dwelling unit.

Attorney Roman asked the Board if they vote on Mergers? Ohlson stated no. Attorney Roman stated there should be a vote as they are acting as a Board and there should be some record of this in case of a zoning violation.

**Motion** by Nordlund, seconded by Marks to authorize Ohlson to execute the Voluntary Merger requested by Ralph Johnson to merge Tax Map 116, Lots 12 and 8. The motion passed **unanimously**.

#### **Voluntary Merger of Lots – Matthew J. MacDonald**

Ohlson stated to the Board that Matthew MacDonald wants to merge three lots together with one dwelling unit.

**Motion** by Cribbie, seconded by Nordlund to authorize Ohlson to execute the Voluntary Merger requested by Matthew J. MacDonald to merge Tax Map 107, Lots 47, 48 and 49. The motion passed **unanimously**.

**Bond for Release request from Jay Bisio for Banfield Hollow Acres**

Bisio explained to the Board Members that the subdivision is done and all the roads have been top coated.

Ohlson asked if there were any empty lots? Bisio stated that there is one lot that he and his wife own and one empty lot was already sold.

Cribbie asked if there was a list for requirements to release the bond? Bisio stated no, but it was pavement and the fire cistern and the top coats. The Board stated it is a nice development.

**Motion** by Nordlund, seconded by Marks to Release the Bond for Banfield Hollow Acres. The motion passed **unanimously**.

Bisio asked what the procedure is, does he receive a letter from the Planning Board? Ohlson stated yes, the Planning Board would prepare a letter for Bisio.

**CHAIRMAN'S REPORT:** Ohlson had nothing to report.

**SELECTMEN'S REPORT:** Price stated there are nine STR cases for the ZBA that are represented by counsel and are looking for a continuance and the ZBA may hear the one STR case not represented by counsel in October.

Price also referred to Marks previous request about the roads and told the Board that District Three is sending someone to the next Board of Selectmen's meeting which is October 17, 2023 to update the Select Board on their plan going forward.

**CORRESPONDENCE/ADMINISTRATION:** Young referred the Board to the Budget. Ohlson asked if they should increase the Supply line. The Board increased the Supply/Ads line from \$100.00 to \$500.00 for the 2024 year.

**Voluntary Merger of Lots – Pomeroy Trails End Trust**

**7:55 pm Motion** by Chairman Ohlson, seconded by Cribbie to enter **Non-Public Session per RSA 91-A:3II (I)** Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present. The Motion passed **unanimously** by roll call vote: Cribbie – aye; Ohlson – aye; Marks – aye; Nordlund – aye; Price – aye.

**8:15 pm Motion** by Cribbie, seconded by Marks to return to public session and not seal the minutes of the Non-Public Session under RSA 91-A:3II (I). The Motion passed **unanimously** by

roll call vote: Ohlson – Aye; Cribbie – Aye; Marks – Aye; Nordlund – Aye; Price – Aye.

Ohlson stated they have a Voluntary Merger of Lots Map 125, Lots 3, 3-1, 3-2 and 3-3 of the Pomeroy Trails End Trust and this is a condominiumization of an existing three building family compound that they want to remerge the three condominium units into the common lot and only have a single common lot. Ohlson stated the issue the Board is having is with the Voluntary Merger and current zoning regulations which do not allow three dwelling units on a single lot.

Ohlson asked for a Motion on how to act on this.

**Motion** by Cribbie, seconded by Nordlund to deny the Voluntary Merger request from William K. Warren, Esquire on behalf of Pomeroy Trails End Trust, Owner for Tax Map 125, Lots 3, 3-1, 3-2 and 3-3 under RSA 674:39-A, III states that no merger shall be approved that would create a violation of then-current ordinances or regulations where there will be three dwellings on a single lot. The motion passed **unanimously**.

Ohlson stated it was a unanimous decision of the Board to deny the Voluntary Merger request.

**ADJOURNMENT:** **Motion** by Cribbie, seconded by Nordlund to adjourn. The motion passed **unanimously** and the meeting adjourned at 8:20 pm.

Respectfully Submitted,

Katharine Young  
Land Use Boards Administrator