



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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**ZBA APPROVED MINUTES
JULY 18, 2018**

CALL TO ORDER: Vice-Chair Lord 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 – Excused	Mark Totman - Present
Stuart Lord, Vice-Chair - Present.	Bebe Bartlett, Alternate -Present
Ken Hughes - Present.	Melissa Arias, Alternate - Excused
Henry Anderson – Present	Kevin O'Neil, Alternate - Excused

OTHERS PRESENT: Colleen King - Land Use Administrator, Tim Hughes - Madison TV, Doug Zimmerman, Atty Donald Smith, Jeffrey Cullington and Land Tech surveyor Bryan Berland.

APPROVAL OF DRAFT MINUTES:

May 16, 2018

The Draft Minutes were reviewed with edits made. Motion was made to accept the minutes as amended by Mr. Hughes and seconded by Mr. Anderson. All Approved.

June 20, 2018

The Draft Minutes were reviewed with edits made. Motion was made to accept the minutes as amended by Mr. Totman and seconded by Mr. Hughes. All Approved.

MEETING NOTICE / ELEVATION OF ALTERNATES

Mrs. King reported that tonight's meeting, notices for all cases were posted on July 5, 2018 at Madison Town Hall, upper and lower levels and the Madison & Silver Lake Post Offices.

Mr. Lord elevated Alternate Bebe Bartlett to sit for Mr. Lucy who was excused.

PUBLIC HEARING

Mr. Lord stated that there are 4 cases on the agenda and Case #18-02 will be heard out of order.

CASE #18-02 A Variance is requested pursuant to Madison Zoning Ordinance Article I, Section 1.3B by Mike Quinn, agent for owner John Chapman Hall, for property located at 795 East Shore Drive, Map 132, Lot 15, to permit a 6 foot upward expansion of the boathouse's existing roofline.

CONFLICTS OF INTEREST

The Board was individually polled for any conflicts of interest:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

Mrs. King read a letter dated July 18, 2018 and signed by the property owner John Chapman Hall and agent Mike Quinn notifying the Board of their intent to withdraw their application.

MOTION

Mr. Hughes made a **MOTION** to accept the request for a withdrawal without prejudice.
Mr. Anderson seconded the Motion. All Approved.

CASE # 18-01 A Variance is requested pursuant to Madison Zoning Ordinance Article V, Section 5.9A by owners Douglas and Eileen Zimmerman, for property located at 47 Haven Road, Map 128, Lot 19, to permit the construction of a deck closer to the south boundary line than the 25' setback requirement.

CONFLICTS OF INTEREST

The Board was individually polled for any conflicts of interest:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

REGIONAL IMPACT

The Board was individually polled for any regional impact:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

RULES OF PROCEDURE/ SWEARING-IN

Mr. Lord read the Rules of Procedure and swore-in those who wished to speak on this application.

WAIVER REQUEST

The applicant presented a Waterfront Site Assessment done by licensed surveyor Ron Briggs, with all setbacks noted, to be used this in lieu of the certified site plan. Mr. Lord stated that this assessment does not show a certification, scale, or topography. Mr. Zimmerman, stated that the application indicated that as long as the measurements were on the document, there did not need to be a scale indicated.

Mr. Zimmerman stated that the current house was rebuilt in 1999 on the original foundation/footprint which is only 10' off the property line and any work on the property will require a Variance. The request is to modify the existing deck which is 1.5' off the boundary line and add another deck to connect the

two. There would be less impact on the land at that location. The building is positioned on the southwest lot line.

Mr. Lord confirmed that the lot size is .4 ac. and Mr. Anderson confirmed that the house was build before zoning and is grandfathered.

Mr. Lord and Mr. Zimmerman agreed that the current footprint of the deck and house that is inside the setback area is 650sf. The expansion in the non-conforming area is 150sf and this is less than 50% of 650sf.

Mr. Lord asked the Board members if Section 1.3B of the Madison Zoning Ordinance would apply to this case. It allows 50% expansion in a non-conforming area.

Mr. Anderson stated that it is further away from the side lot line.

Mr. Lord reviewed the requirements of Section 1.3B and because this application meets all the requirements, he does not believe this application requires a Variance.

PUBLIC COMMENT

Mr. Lord opened the Hearing for Public Comment. Mr. Zimmerman inquired if he needed a Variance.

Mr. Totman stated that building permits to expand 50% within Section 1.3B should come for review before the Board.

STATEMENT OF FACTS

Mr. Lord reviewed the fact of this case:

1. Property is located on 47 Haven Road, Map 128, Lot 19, .4 ac
2. The house was rebuilt on the original foundation in 1999.
3. The sf of the current house in the setback area to the south is 650sf.
4. The proposed expansion is 150sf, also in the setback to the East side of the house.
5. The allowed expansion is 50% of the 650sf without needing a Variance.

Mr. Hughes made a **MOTION** to close the Public Comment of the Hearing. Mr. Anderson seconded. All Approved.

DELIBERATION

Mr. Lord believes that this case meets the requirements of Section 1.3B; it is 23% proposed expansion, is further away from the side lot line and is not higher than the existing structure.

Mr. Anderson is glad that this case came before the Board for review.

MOTION

Mrs. Bartlett made a **MOTION** that no Variance is required because Zoning Ordinance Section 1.3B applies. Mr. Totman seconded. All Approved.

Mr. Lord reviewed the Appeal Process.

CASE #18-03 An Equitable Waiver of Dimensional Requirements is requested pursuant to Madison Zoning Ordinance Article V Section 5.9C by Attorney Donald Smith, agent for owners Jeffrey and Alana Cullington, for property located at 951 Plains Road, Map 128, Lot 31, in the Rural Residential Zone, to permit the northeasterly corner of the residential building to be located 72' from the high water mark of Silver Lake and the bulkhead to remain 69' from the high water mark.

CONFLICTS OF INTEREST

The Board was individually polled for any conflicts of interest:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

REGIONAL IMPACT

The Board was individually polled for any regional impact:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

WAIVER REQUEST

The existing dwelling is over 1000' away from the road frontage and situated on a 7 ac lot. All elements of a certified plot plan to include 2' topography around the application area are shown. Additional information for the remaining property would serve no useful purpose for the Equitable Waiver Request and would put unnecessary hardship on the applicant.

Mr. Lord reviewed the plan submitted which provides all the information needed.

Mr. Hughes made a **MOTION** to waive a certified plot plan requirement on the entire parcel.

Mr. Totman seconded. No discussion. All Approved.

RULES OF PROCEDURE/ SWEARING-IN

Mr. Lord read the Rules of Procedure and swore-in those who wished to speak on this application.

Atty. Smith explained that under RSA 674:33a, they are applying for an Equitable Waiver, where this house was built approximately in 1996 with an approved septic and no indication of any enforcement action by the Town in the last 10 years. The current owners bought this bank-owned property in 2017.

PUBLIC COMMENT

Mr. Lord opened the Hearing for Public Comment.

Mr. Lord asked for clarification of the northeast corner being 72' from the highwater mark, according to the application and the map shows a distance of 69'. Mr. Berland, the surveyor from Land Tech stated that 69' is to the roof overhang at the northeast corner and the 72' is to the northeast corner wall. The northeast corner of the bulkhead is also 69'. The footprint including the corner overhang is 69' from the high water mark.

Mr. Anderson asked about what year was the house built. Mrs. Bartlett stated that Assessor's card shows 1994, 24 years ago. Atty. Smith stated to their knowledge that was the original structure.

SUMMARY OF FACTS

1. The house is located at 951 Plains Road, Tax Map 128 Lot31, in the Rural Residential Zone.
2. The property is 7 acres, built in 1994.
3. In 1996, there was additional construction on the west side outside of the setback.
4. The corner overhang of the house to Silver Lake is 69' where 75' is required.
5. The corner of the bulkhead to Silver Lake is 69' where 75' is required.
6. There has been no enforcement action by the Town in the past 24 years.

Mr. Lord asked if there was any additional public comment. Mr. Hughes made a **Motion** to close the Public Comment section; seconded by Mr. Anderson. With no further discussion, all approved.

DELIBERATION

Mr. Lord reviewed the requirements for an Equitable Waiver:

1. The violation has existed for ten years or more with no enforcement action.
3. The physical or dimensional violation do not constitute a public or private nuisance, and do not diminish the value the property in the area, and do not interfere with or adversely affect the present or permissible future uses of such property.
4. The cost of the correction far outweighs any public benefit to be gained that it would be in inequitable to require the violation to be corrected, in part due to the degree of past construction or investment made.

The Board members agreed that that all requirements have been met by the applicant.

MOTION

Mr. Hughes made a **MOTION to GRANT** the Equitable Waiver request; seconded by Mrs. Bartlett.

No Discussion. All Approved.

Mr. Lord reviewed the Appeal process.

CASE #18-04 A Variance is requested pursuant to Madison Zoning Ordinance Article V Section 5.9C by Attorney Donald Smith, agent for owners Jeffrey and Alana Cullington, for property located at 951 Plains Road, Map 128, Lot 31, in the Rural Residential Zone, to permit a waterfront deck to be constructed 69' from the shoreline.

CONFLICTS OF INTEREST

The Board was individually polled for any conflicts of interest:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

REGIONAL IMPACT

The Board was individually polled for any regional impact:

Mr. Lord – no Mr. Totman – no
Mr. Anderson – no Mrs. Bartlett – no
Mr. Hughes – no

WAIVER REQUEST

There is the same waiver request as the previous case.

Mr. Hughes made a **MOTION** to waive a certified plot plan requirement on the entire 7 ac parcel, only the area where the house is located, since a certified plot plan was submitted for the area of interest.

Mr. Totman seconded. No discussion. All Approved.

RULES OF PROCEDURE/ SWEARING-IN

Mr. Lord reviewed the Rules of Procedure and swore-in those who wished to speak on this application.

Mr. Berland reviewed the property: The lot is 7ac, Tax Map 128 Lot 31. There is 304' road frontage on Plains Road and the home is setback 1067' from Plains Road. There is 323' of waterfront and a preexisting structure is 69' from the high water mark to the northeast corner of the roof drip edge and the bulkhead. Other than the 2 areas which are 69' from the lake, the house is fully compliant. The structure was built in 1994. This proposal is for an 8' deck to be constructed running parallel with the front wall and tying into the existing deck which faces southwesterly from the home. This proposed deck is fully compliant with the NH State Shoreline setbacks of 50' from the lake, where the Town setback is 75'.

Atty. Smith reviewed the criteria for a variance.

-Contrary to public interest – it is not encroaching any further into the 69' setback. The type of deck is similar to a patio and will provide the same usage as a patio to the homeowners.

-Spirit of the Ordinance is observed - the ordinance is not meant to be punitive. The deck will allow them to use the deck as part of the second home.

-Substantial justice – The property owners will be using this proposal, consistent with usage in the surrounding area. It will increase the value of the house.

- Diminish the values of the surrounding buildings – This is a permitted use and is not visible from the surrounding properties.

-Hardship – The House has been there since 1994 and in order to enjoy a deck on the house, the house would have to be moved and that is a hardship. The proposed use is a reasonable use and low impact.

PUBLIC COMMENT

Mr. Lord opened the Hearing for Public Comment and inquired about the sf of the new deck.

Atty Smith stated the new deck is 8' x 26.5' and the setback line bisects the deck.

SUMMARY OF FACTS

Mr. Lord reviewed the facts of the case:

1. The house is located at 951 Plains Road, Tax Map 128 Lot 31, in the Rural Residential Zone.
2. The property is 7 acres, on a secluded point of Silver Lake, with a house built in 1994.
3. In 1996, there was additional construction on the west side outside of the setback.
4. The corner of the bulkhead to Silver Lake protrudes into the setback and just received a waiver.
5. Ordinance 1.3B does not apply here and a Variance is required.
6. The deck is 8' x 26' and approx ½ of that area is the setback area (104sf)
7. There are very few windows to take advantage of the southeasterly view.

Mr. Hughes made a **MOTION** to close the Public Comment section; seconded by Mr. Totman.

With no further discussion, all approved.

DELIBERATION

Mr. Lord stated that from aesthetics standpoint, this deck would use the space between the bulkhead and the stairs and the relocation of the stairs would be in a complaint area. Mrs. Bartlett stated that the deck would not protrude anymore than the 69' and it will be no closer to the lake.

MOTION

Based on these facts, Mr. Lord made a **MOTION** to **APPROVE** the Variance; Mr. Hughes seconded. All Approved. Mr. Lord reviewed the Appeal process.

NEW BUSINESS

Mrs. King passed out copies of the Superior Court Complaint filed by the Connolly's on East Shore Drive against the Town of Madison Zoning Board. Mrs. Bartlett will not be at the August meeting.

ADJOURNMENT

Mr. Totman made a Motion to Adjournment; Mrs. Bartlett seconded. All Approved.
The meeting adjourned at 7:23pm.

Respectfully submitted,
Colleen King, Land Use Administrator

These minutes were APPROVED at the August 15, 2018 ZBA Meeting.