



**TOWN OF MADISON  
ZONING BOARD OF ADJUSTMENT  
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**ZBA APPROVED MINUTES  
August 18, 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, John Macdonald, Jay Buckley, Tricia Kelly

**ELEVATION OF ALTERNATES:** N/A

**APPROVAL OF JULY 21, 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. Totman. **VOTE:** 5-0 Mr. Lord - yes, Mr. Gentile - yes, Mr. Ohlson- yes, Mrs. Bartlett - yes, Mr. McAllister – yes.

**PUBLIC HEARING:**

**Case # 21-03R Request for Appeal/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 August 3, 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.

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

1. Board acted in good faith
2. Postings and notices were done correctly
3. VDOE owns waterlines and water system
4. Community water system is not Board issue
5. The new information on the case is regarding a State of NH DES requirement

**MOTION/VOTE:**

Mr. Lord made a **MOTION** to deny this rehearing request for property located at 26 Huttwil Drive, Map 104, Lot 1, 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.
- and submitted by the applicant as part of this hearing; seconded by Mr. McAllister.

The reason for the denial is that the motion for rehearing was based on State of New Hampshire Department of Environmental Services requirements that are outside the jurisdiction of the Zoning Board of Appeals.

Rollcall Vote: Mr. McAllister – Aye Mr. Lord – Aye Mrs. Bartlett - Aye Mr. Totman – Aye Mr. Gentile – Aye

MOTION PASSED by a vote of 5 to 0.

**Case # 21-08** Variances are requested by Tobin, Margaret, Devin & Tricia Kelly, for property located at 151 King Pine Road, Map 248, Lot 28, to construct a mudroom addition on a 1.1ac parcel, in violation of Madison Zoning Ordinance Article V, Section 5.9A and Section 5.9D, with the following relief:

1. The house to be 62 feet from the center line of King Pine Road where 75 feet is required

**MEETING NOTICE:** Mrs. Cyr reported that tonight's Public Hearing was posted on August 3, 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 # 21-08: 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 is a request waiver of a certified plot plan. Mr. Gentile made a **MOTION** to grant the waiver of the certified plot plan, seconded by Mark Totman.

Rollcall Vote: Mr. McAllister – Aye Mr. Lord – Aye Mrs. Bartlett - Aye Mr. Totman – Aye Mr. Gentile – Aye

MOTION PASSED by a vote of 5 to 0.

**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:** Tricia Kelly was sworn-in to testify for this hearing.

**PRESENTATION/ BOARD QUESTIONS:** Mrs. Kelly, explained the variances requested for the lot located at 151 King Pine Road, Map 248, Lot 28. Mrs. Kelly stated that the property is owned by family members. They are proposing to construct a 13'6" x 12'6" mudroom onto the front of the house. The new entrance to the house would alleviate issues with the existing sloping driveway being icy in the winter and easier access for elderly family members. The mudroom would also add a third egress from the house. The stairs will be internal in the mudroom. The Mr. Lord made a **MOTION** to close the public hearing seconded by Mr. McAllister. All approve.

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

1. Mudroom addition is 62' from the center of road where 75' is required
2. Proposed 170 sq ft mudroom addition with new driveway
3. House currently had 3 egresses
4. Slope of driveway is very slippery during the winter
5. Sliding glass door on front of house goes to a 4-6 foot drop
6. Two abutters and one neighbor support the project
7. There will be sufficient on-site parking, off road
8. Level exterior entry, stairs on inside of mudroom

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

The variance will not be contrary to the public interest because it has no visual impact to the abutters. It will improve the safety and access to the property. The spirit of the ordinance is observed because it will increase the number of parking spaces and improve the accessibility to the home. Substantial justice is done because it allows someone with mobility issues to access the property. The values of the surrounding properties will not be diminished because the mudroom addition will add value to the property. The unnecessary hardship will be addressed by providing traffic control and improving safe access to the house by correcting the existing slope. The proposed use is reasonable because it improves the egress from the home and will correct the slippery driveway in the winter months.

Mr. Lord made a **MOTION** that the five criteria are met, Mr. McAllister seconded. All approve

#### **MOTION/VOTE**

Mr. Gentile made a **MOTION** to approve this request for a Variance, the house to be 62 feet from the center line of King Pine Road where 75 feet is required with the condition that the 62' setback is accurate within 9" and be verified by the Code Enforcement Officer; seconded by Mr. Totman.

Rollcall Vote: Mr. McAllister – Aye Mr. Lord – Aye Mrs. Bartlett - Aye Mr. Totman – Aye Mr. Gentile – Aye

MOTION PASSED by a vote of 5 to 0.

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

**Case # 21-09** Variances are requested by John W. & Ellen Q. Macdonald, for property located at 8 Crooked Pine Road, Map 248, Lot 053, to construct a garage on a 1.3 ac parcel, in violation of the Madison Zoning Ordinances Article V, Section 5.9A & 5.9D with the following relief:

- 1) The house to be 46 feet from the centerline of Crooked Pine Road where 75 feet is required

**MEETING NOTICE:** Mrs. Cyr reported that tonight's Public Hearing was posted on August 3, 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 # 21-09: 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 reported that there is a request waiver of a certified plot plan. Mr. Totman made a **MOTION** to grant the waiver of the certified plot plan, seconded by Mr. McAllister.

**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 Macdonald was sworn-in to testify for this hearing.

**PRESENTATION/ BOARD QUESTIONS:** Mr. Macdonald explained the variance request for property located at 8 Crooked Pine Road, Map 248, Lot 053, to construct a garage on a 1.3 ac parcel. He explained that the garage would be 38' wide x 36' long. The location selected is because of obstructions such as well, powerlines, septic tank and steep slope on the property. The property is one of three houses on Crooked Pine, which is a private road that goes onto a ski trail. The King Pine Road setback is met. The house was a vacation home and is now a fulltime home.

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

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

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

- 1 Proposed garage 38'x36'
- 2 Only two other houses on Crooked Pine, low traffic
- 3 Meets set back requirement from King Pine Road
- 4 Obstructions to alternate locations of garage. Powerlines, well, septic tank location
- 5 Changing the location would require a substantial retaining wall

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

The variance will not be contrary to the public interest because the visual impact is best in the proposed location. The spirit of the ordinance is observed because the request to add a modest garage is reasonable. Substantial justice is done because an alternate location would interfere with electrical wires and well and would increase construction costs. Moving the location would create a less appealing aesthetic to neighbors. Because of special conditions of the property that distinguish it from other properties in the area, this proposal avoids a significant increase in construction cost compared to the alternative. The public wouldn't gain anything by moving the garage back. The proposed use is a reasonable one because if you live in New Hampshire, you need a garage.

Mr. Lord made a **MOTION** that the five criteria are met, seconded by Mr. Totman. All Approve.

**MOTION/VOTE:**

Mr. McAllister made a **MOTION** to approve this request for a Variance for property located at 8 Crooked Pine Road, Map 248, Lot 053, to construct a garage on a 1.3 ac parcel, in violation of the Madison Zoning Ordinances Article V, Section 5.9A & 5.9D with the following relief:

1) The house to be 46 feet from the centerline of Crooked Pine Road where 75 feet is required seconded by Mr. Totman.

Rollcall Vote: Mr. McAllister – Aye Mr. Lord – Aye Mrs. Bartlett - Aye Mr. Totman – Aye Mr. Gentile – Aye

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 Planning Board will be proposing to eliminate all non-conforming from 1.3b.

**ADMINISTRATION:** Mr. Lord complimented the Board on the process of answering the five questions for each case.

**ADJOURNMENT:**

Mr. McAllister made a MOTION to adjourn the meeting; Mrs. Bartlett seconded. All approved. The meeting adjourned at 8:45pm.

Respectfully Submitted,  
Kim Cyr  
Land Use Administrator