



**TOWN OF MADISON
PLANNING BOARD**

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**PLANNING BOARD MINUTES
December 1, 2021**

MEMBERS PRESENT: Marc Ohlson - Chair, Dave Cribbie, Charlie Allen, Paul Marks, Jay Buckley, Paul Littlefield, Alternate Phil LaRoche, and Selectmen Representative Josh Shackford.

OTHERS PRESENT: Town Administrator Linda Shackford, Ron Briggs, Seth Shackford, Shawn Bergeron, Paul McKenna, Nick Borelli, Terri Cancelarich, Don Burnham, Mark Faunce, Nordel Gagnon, Michael Brown, Curtis Coleman and Madison TVs Noreen Downs and Moselle Spiller

CALL TO ORDER: Chairman Ohlson called the meeting to order at 7:04 PM.

POSTING DATES & LOCATIONS: Notice was posted on November 17, 2021 at the Madison and Silver Lake Post Offices, in the Madison Town Hall - upper and lower levels. The meeting notice was published in the Conway Daily Sun on November 20, 2021.

ELEVATION OF ALTERNATES: **Motion** by Marks, seconded by Littlefield to elevate LaRoche as a voting member. The motion passed unanimously.

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

APPROVAL DRAFT MINUTES: **Motion** by Marks, seconded by Cribbie to approve the November 3, 2021 minutes as written. The motion passed unanimously.

PUBLIC COMMENT: There was none.

Chairman Ohlson announced **Case # 21-11; 2-Lot Subdivision** for Ron Briggs of Briggs Land Surveying, agent for owner Fred and Karen Shackford, proposes a 2-Lot Subdivision at 202 Goe Hill Road, on Map 247 Lot 036, proposed new lot of 4.02 acres. The remaining parcel of Map 247 Lot 036 have 20.48 acres, in the Rural Residential Zone. Both lots have over 200 feet of frontage.

Owner Agent Ron Briggs of Briggs Land Survey presented the plans for the creation of a new 4.02 acre lot. The proposed plan has received state subdivision approval and corner markers have been set on all four corners. Briggs asked for a waiver of surveying the whole property as a 1984 O'Brien plan is on record. The road frontage for the parent lot will be 569.41' and the new lot will have 226.05'. The new lot has at least 2 acres that are not wetland and less than 33% slope.

Cribbie asked about driveway access to the new lot. Briggs explained that there is an easement on record that provides access to Fred and Karen Shackford.

Chairman Ohlson asked for public comment.

Mark Faunce, noticed abutter at 264 Goe Hill Road, stated that he is the owner of the land that offers the easement and he is in favor of this subdivision.

Chairman Ohlson closed the hearing to public comment.

Motion by Allen, seconded by Marks to approve Case 21-11 for Fred and Karen Shackford of Map 247 Lot 036 for a 2-lot subdivision. The motion passed **unanimously**.

Chairman Ohlson will sign the plans, application and mylar out of session once upon received.

Selectmen Josh Shackford joined the meeting.

Chairman Ohlson opened a **PUBLIC HEARING** on a petitioned amendment to the Madison Zoning Ordinance that states:

To see if the Town of Madison will vote to approve the expanded definition of a dwelling unit to be: “A building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding house or similar short-term lodging accommodations [*sic*] to paying guests for as little as one night.”

Nick Borelli, resident and sponsor of the petition, gave history as to how he came to be a resident of Madison. Borelli explained the disruption that short-term rentals (STRs) have brought to the area. STRs have no place in residential zones and should be allowed only in commercial districts stated Borelli. Borelli expects this petition zoning ordinance amendment to “take the legs out of the horse” known as STRs.

Mark Faunce, resident at 264 Goe Hill Road, stated his opposition to changing the current zoning expressing that if there are issues with STRs it is a law enforcement issue, not a job for the Planning Board.

Terri Cancelarich, owner of 108 Eidelweiss Drive, expressed her support of the petition recalling the grief of living near an STR over the last 3-4 summers. The onus falls upon the neighbors to police the problem said Cancelarich adding that she does not want to live in a transient place.

Nordel Gagnon, resident at 133 Pondwood Drive, told that he has several STRs surrounding him and over time has met many wonderful people but has also seen behavior that includes profanity, road traffic and loud noises which degrades from the area more than it adds. Gagnon does not want to have to police the area for the police.

Michael Brown, owner of 22 Little Shore Drive, is of the understanding that commercial endeavors are not allowed in the Eidelweiss area and rhetorically asked why properties are being allowed to be advertised as commercial rental properties. Brown plans to retire here but does not want to it to be a constant “spring break” atmosphere.

Paul McKenna, property owner, spoke of the not-for-better changes that have occurred over the years since the inception of STRs. Sleepless nights, barking dogs, blocked driveways and overburdened water systems are just some of the concerns. McKenna stated that he feels the only ones that benefit from STRs are the owners doing the renting.

Shawn Bergeron, owner at 93 Forest Pines Road, is a proponent of STR regulations. It appears that the Eidelweiss district is most negatively impacted and proposed consideration of not rolling out to all districts but suggesting the logical place to start would be Eidelweiss.

Chairman Ohlson closed the public hearing.

Chairman Ohlson opened for discussion the **PUBLIC HEARING** on proposed Zoning Definitions reading aloud the following:

1.3B Non-Conforming Use: 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.

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.

Cooking: Equipment is supplied for the purpose of cooking food such as but not limited to a traditional stove/range/oven located anywhere within the separate and independent living space from the primary dwelling unit.

Sanitation: Equipment is supplied for the purpose of sewage removal and includes but is not limited to items such as traditional septic system, a composting toilet, and incinerator toilet, etc. Refer to State of New Hampshire Department of Environmental Services Septic Standard ENV-WQ1000.

Short-Term Rental: “Short-Term Rental” means a non-owner occupied residential dwelling unit where transient lodging with sleeping accommodations for fewer than 16 occupants is provided for compensation for stays of any duration between one and 30 consecutive nights, and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as but not limited to a hotel, motel, or bed-and-breakfast

Dwelling Unit: One or more rooms arranged, designed, or used for non transient residential purposes with independent sanitary and cooking facilities.

Single Family House: Any building containing one dwelling unit.

Chairman Ohlson opened the floor to public comment.

Shawn Bergeron, resident at 93 Forest Pines Road, made a point to be considered that the proposed definition of short-term rental includes the works dwelling unit which is also a being proposed as a definition and will be creating a circular reference.

Michael Brown, owner of 22 Little Shore Drive, asked how enforcement of a definition that states less than 16 people are allowed will be done. Brown asked why is renting of the property

not a regulated activity. Chairman Ohlson stated that it is the opinion of the Board's attorney that rentals are a usual and customary use of a dwelling unit. Brown proposed that if there are fifteen people staying in a home paying \$2,000 a week is that not commercial. Chairman Ohlson stated that there are regulations to determine how many people can stay in a unit with Brown again questioning who will be enforcing that.

J. Shackford interjected that just because these definitions are being proposed does not mean that this Board or the Board of Selectmen will be allowing STRs. The definition is necessary if it comes to enforcement.

Terri Cancelarich, owner of 108 Eidelweiss Drive, noted that the Town does not currently have the personnel to enforce STRs so before making this leap know how to enforce it. STR owners vet their renters by the ability to pay with a credit card, they are strangers to our neighborhood.

Chairman Ohlson closed the public hearing.

Chairman Ohlson began discussion of **Ledge Pond Road** with the statement that the Planning Board does not perform any enforcement for the Town with the exception of the Excavation Regulations which includes NH RSA 155-E. The Board invited a representative of the Alvin J. Coleman and Sons company to this meeting to discuss the situation of Ledge Pond Road. Curtis Coleman is in attendance.

Allen began by offering his timeline of permit information that included a 2009 permit to mine, 2018 a letter of deficiency and in 2019 plan to correct the deficiencies. Allen asked when will the work begin to comply.

Coleman explained that the fence along Ledge Pond Road has been lengthened and gravel has been added to the road noting the deeded access of owners of Ledge Pond Road properties. Coleman stated that the company is within their permit and has not violated any DES requirements. The construction season has begun to wind down and Coleman stated that they intend to begin performing benching and reclamation of the southern end of the pit and if the winter stays mild enough, we will do some drainage, benching and tying work. DES plans show the ability for us to excavate further but we are not going to do that. Coleman added that the life of the pit is about done and it will be revegetated and close in at that point.

Allen asked about the pit coming close to the road. Coleman responded that he walked it today, brought a loader and dump truck on it; it is safe noting that last spring there was some erosion that has been fixed that was all on Coleman property. Cribbie asked about the grade along the slope of the road noting it seemed pretty vertical. Coleman agreed and stated that they have begun building the toe and tying it in at the portion near the abutters. Answering questions from Chairman Ohlson, Coleman stated that they are done excavating, will not be going deeper, it will be reclaimed per the plan and work will continue in the spring taking weather into consideration.

Ohlson asked if the Board can visit the property and have Coleman show them around. Coleman agreed with Ohlson connecting with Coleman to arrange such within the next week or two.

Don Burnham, owner of 542 Ledge Pond Road, told the Board that the evening before the Board of Selectmen stated that in their opinion Ledge Pond Road is a private road. If that opinion stands then this Board does not have the ability to control the excavation along Ledge Pond Road, as per RSA 155-E, because it is not a public way. Burnham rhetorically asked what the purpose of such a decision is other than to take away the Planning Board's authority to regulate.

Chairman Ohlson explained that they can still perform their regulatory duties the only difference is that they cannot enforce the 50' setback if it is not a Town road. And that is what Burnham expressed as his biggest concern. Burnham opined his time line of when the road was considered to be Town owned and expressed his fear that the road will never be brought back to the previous state in a reasonable amount of time. Chairman Ohlson stated that the reclamation will be done per DES and RSA 155-E.

CORRESPONDENCE/ADMINISTRATION: Receipt of a letter regarding concern of a fire pit at 32 Oak Ridge Road from the neighbor Wondolowski was read aloud by Chairman Ohlson. This letter was also sent to the fire department, code department and Board of Selectmen. Audience comment reiterated that this is a problem for STRs. McKenna asked if anyone on the Board profits from STRs and if there is he feels they should recuse themselves. Buckley and Allen responded with the question was brought before counsel and since this is not a judicial board there does not have to be a recusal and anyone that needs to recuse themselves will do so.

Chairman Ohlson asked the Board if this list of definition discussed earlier in the meeting is what we'd like to present on the ballot at Town Meeting. The Board agreed to vote with Cribbie asking for them to be voted upon separately as he has some reservations about the changes to 1.3b.

Motion by Laroche, seconded by Marks to accept 1.3b as written. Cribbie feels that giving some rights is a better option than none, we need to give some sort of incentive to not tear down structures and start again. Laroche was in agreement with Cribbie's comments. Chairman Ohlson summarized that the ordinance change was brought about because of a Supreme Court case. The new verbiage would allow building back of what was in place versus the expansion of 50% as currently written. Cribbie would like to see it written closer to what we already have in place.

Laroche made a suggestion to add “, and then to be” after the word demolished. There was no action taken on the suggestion.

With a motion on the floor a vote was called with the motion **passed** with Cribbie and Laroche opposed.

Motion by Marks, seconded by Allen to accept the balance of the definition changes as written. The motion **passed** unanimously.

Chairman Ohlson asked if the Board would like to hold a public hearing in January for adding special exception regulations regarding STRs. Allen was of the opinion that there is currently a petition article on the table along with these new definitions; this is enough for now and if necessary, this could be something to bring forward next year. Cribbie was in agreement noting that this petition has painted us into a corner. At the next meeting it will be noticed for the Board of offer their recommendation to support or not support the petition along with the new definitions.

CHAIRMAN'S REPORT: Chairman Ohlson offered to set up a time to visit the Coleman property with members offering their times of availability.

SELECTMAN'S REPORT: Selectman Shackford had nothing to report.

ADJOURNMENT: **Motion** by Allen, seconded by Marks to adjourn. The motion passed **unanimously**. The meeting adjourned at 8:42 pm.

Respectively Submitted,

Linda Shackford
Town Administrator