



**TOWN OF MADISON
PLANNING BOARD
PO BOX 248
MADISON, NEW HAMPSHIRE 03849**

planning@madison-nh.org

Phone: 603-367-4332 x303 Fax: 603-367-4547

**PLANNING BOARD MINUTES
August 3, 2022**

MEMBERS PRESENT: Chairman Marc Ohlson, Paul Marks, Karl Nordlund; Alternate Jay Buckley; Alternate Phil LaRoche; Selectmen Josh Shackford, Michael Mauro and John Arruda

MEMBERS EXCUSED: David Cribbie, Paul Littlefield, Charlie Allen

OTHERS PRESENT: Town Administrator Linda Shackford; MadTV Aysia Morency; 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 July 13, 2022.

ELEVATION OF ALTERNATES: **Motion** by Ohlson, seconded by Nordlund to elevate Buckley and LaRoche to full members for this meeting. The motion passed **unanimously**.

PLEDGE OF ALLEGIANCE: Buckley led those present in the Pledge of Allegiance.

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

APPROVAL DRAFT MINUTES: **Motion** by Buckley, seconded by Marks to approve the minutes of the July 6, 2022 as written. The motion passed **unanimously**.

PUBLIC COMMENT: There was no comment from the public. Nordlund thanked the alternates for their service for without them this meeting would not have a quorum tonight.

OLD BUSINESS:

Short Term Rental (STR) Discussion with the Board of Selectmen:

Ohlson began by explaining that he has been advised by counsel that STRs in place prior to 1987 are "good to go"; since March of 2022 Town Meeting STRs created after that time are clearly not legal. Planning Board's counsel suggests finding a middle ground with the Selectmen on how to handle those created between 1987 and March 2022.

Arruda expressed his concerns regarding how management of STRs would impact the budget. Arruda sees the need for an eventual full-time position and expensive legal fees. This year's budget did not plan for those expenses, therefore Arruda cannot see taking it on this year.

Buckley suggested writing a noise ordinance with Mauro commenting that noise ordinances cannot be policed and it won't settle the STR problem. LaRoche likes the idea of a noise ordinance and to proceed with small steps.

Paul McKenna and John Cancelarich spoke of problem properties that do not respond or care about threats of police or fines.

Steve Stoddard stated he has rented to a few people that he knows and any income he received goes back into the economy in the form of contracted services.

Shawn Bergeron suggests the Planning Board create the criteria for a special exception and let the voters decide in March. This will create a burden on the ZBA initially but you will find that many will opt out as they cannot meet the conditions. It will be a process that requires patience. LaRoche likes the special exception idea as it allows abutter input to which J. Shackford stated that just because an abutter doesn't want it, it can still be approved.

Kathy Koziell feels that any limits put in place will invite the threat of a lawsuit to which Todd McCartney would like to see everyone work together and stay out of the courts.

Ohlson suggests that the Planning Board and Selectboard meet in non-public with the advice of counsel to which all were in agreement with a date to be arranged the week of August 15th.

PUBLIC HEARINGS:

Case # 22-02 CONTINUED 3-Unit Cluster Subdivision for John Chagnon of Ambit Engineering, Inc., agent for owner Tayzach Realty Trust, Ken Jerome Sakurai, Trustee, proposes a 3-unit cluster subdivision at 363 Danforth Lane, on Map 120 Lot 005. Proposed new cluster lots are in the Rural Residential Zone.

Ohlson opened the hearing. The applicant nor the applicant's agent was present. Ohlson noted that the options are to continue the application or deny without prejudice.

Motion by LaRoche, seconded by Buckley to continue the application for Case #22-02 to the September 7, 2022 meeting. The motion passes **unanimously**.

Case # 22-03 Change of Use or Occupancy for Becket Academy Inc, at 2142 Village Road, on Map 233, Lot 010. Proposed for office use.

The applicant recently purchased the property that was operating as a property management company. The new owner proposes to change the garage area of the building to office space. The space will be used to hold run ZOOM meetings, offices and storage. The administrative staff will usually be two personnel with some days as many as five. There are twelve parking spaces available on the property.

Motion by Buckley, seconded by Marks that no further review is necessary. The motion passed **unanimously**.

SECTION 1.3B – Ohlson read aloud a letter dated August 2, 2022 from Christopher T. Meier of Cooper Cargill Chant regarding the Review of Zoning Ordinance 1.3B:

"Dear Planning Board:

This office represents the Connolly family, who own property at 585 East Shore Drive, and were the plaintiffs in a case interpreting Section 1.3B. The Connollys have asked us to write to urge the Planning Board to maintain the interpretation of Section 1.3B as established by the Supreme Court, or delete Section 1.3B after the first sentence removing the ability to expand non-conforming / grandfathered structures, for the same reason we argued for the Supreme Court's interpretation in our case.

In short, the Planning Board and the Town's voters instituted the zoning ordinance intentionally – setting guidelines for the Town that everyone can live by, and setting a vision for the reasonable and planned growth of the Town. Expansion of non-conforming uses conflicts with this goal and vision, and allows certain property owners to not only continue in uses and structures that would be unlawful but for their prior existence, but expand the illegality (away from the planned vision established by zoning). Moreover, the goal of zoning is supposed to be to reduce or eliminate non-conformities, and the allowance of expansion counters this goal.

The Connolly case provides a clear example of what can, and will, happen with an expansion clause, especially one up for interpretation – where the Ordinance allowed for a 992 square foot expansion, the abutter sought a 4,546 square foot expansion by arguing that neither basement nor second floor square footage, nor square footage inside the building envelope, should be counted against the cap. Classically, where the Ordinance gave an inch; applicants will seek a mile. And as might be expected, this will affect the shorefronts of Madison's lakes more than any other district.

The Planning Board sets the vision of a future for the Town, and its lakefronts, through its Zoning Ordinance. Does the Planning Board envision a lakefront future within the current zoning ordinance, preserving the tradition of grandfathered cabins within the shorefront, and only permitting larger homes if set back from the shore; or a future of expansion McMansions – where every 1500 square foot single level cabin within the shorefront can become a 6,000 square foot residence using the same footprint?

Thank you for your consideration of our clients' thoughts and experience, and thank you for your service to the Town. Do not hesitate to contact me if you would like additional information."

Jason Dennis resident and attorney with Hastings Law Office, PA happened to be at the meeting and was able to comment that Attorney Malia had suggested a small change to make 1.3B clearer; Dennis does not see the need to throw the section out completely. Bergeron would like the small change Malia suggested be considered with Ohlson adding that the ZBA's attorney agrees with the change.

COLEMAN LETTERS:

Ledge Pond Pit: Correspondence regarding the Ledge Pond Pit property Map 202 Lot 008 was received from Hastings Law Office on behalf of Coleman's through Mitchell Municipal Group, PA in response to the Board letter dated July 18, 2022. Coleman has the requested stakes and flagging and can provide coordinates if so desired. The letter states that the Board is already in

possession of the most recent plans for the property.

Attorney Jason Dennis was present and offered that the Board can communicate directly with Coleman suggesting that the best way to handle the Board's claim that they do not have the plan is that Dennis can ask Coleman's to get what is needed. Ohlson asked for a copy of the revised plan that the Board was shown in December at the meeting held on the pit property.

Excavation on Lot 203/009: Correspondence regarding the Ledge Pond Pit property Map 203 Lot 009 was received from Hastings Law Office on behalf of Coleman's through Mitchell Municipal Group, PA in response to the Board letter dated July 18, 2022.

Ohlson recused himself from this topic and moved to the audience. Marks took chair of the meeting.

Coleman disagrees with the they are "excavating the property without....an excavation permit" and are quite concerned with the genesis of such an accusation. Coleman will continue to be a good neighbor in excess of 50 years and will revegetate around the area of the access point and spread loam while maintaining an access point for future logging operations.

Buckley expressed concern that Coleman cannot supply the permit needed to excavate on that property. Attorney Dennis stated that there is not permit because Coleman was not excavating, a mistake was made and revegetation and loaming will be done.

Motion by Buckley, seconded by Nordlund to meet with Coleman and clarify what happened on Map 203 Lot 009. The motion passed **unanimously**.

Ohlson returned to chair the meeting.

SELECTMEN'S REPORT: J. Shackford gave the floor to Chief King to speak about cell phone coverage. King asked the Board to consider changing the current language of the Zoning Ordinance that prohibits any interest in building a tower to a less restrictive ordinance. Emergency services relies on this service and it is inadequate. J. Shackford suggested that King, Buckley and other interested parties get something together to present at Town Meeting in March.

CHAIRMAN'S REPORT: No report.

CORRESPONDENCE/ADMINISTRATION: There was none.

ADJOURNMENT: Motion by Nordlund, seconded by Marks to adjourn. All Approved. The meeting adjourned at 9:09 pm.

Respectively Submitted,

Linda Shackford
Town Administrator