



**TOWN OF MADISON
PLANNING BOARD
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**PLANNING BOARD MINUTES
November 2, 2022**

MEMBERS PRESENT: Chairman Marc Ohlson; Paul Marks; Paul Littlefield; Charlie Allen; Karl Nordlund; Alternate Jay Buckley

MEMBERS EXCUSED: Dave Cribbie; Selectman Josh Shackford; Alternate Phil LaRoche

OTHERS PRESENT: Town Administrator Linda Shackford; MadTV Carol Dandeneau

POSTING DATES & LOCATIONS: Notice was published in the Conway Daily Sun and posted at the Madison and Silver Lake Post Offices, in the Madison Town Hall - upper and lower levels on October 20, 2022.

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

ELEVATION OF ALTERNATES: **Motion** by Nordlund, seconded by Littlefield to elevate Buckley to a full-members for this meeting. The motion passed **unanimously**.

APPROVAL OF AGENDA: **Motion** by Buckley, seconded by Allen 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 October 5, 2022 with one spelling change of "nail" to "mail" on page 2. The motion passed **unanimously**.

PUBLIC COMMENT:

Hank Walther of Route 41 in Silver Lake approached the Board asking for direction on his next step to opening the Silver Lake Railroad again in May of 2023 using rental bicycles on the rails. Walther explained:

- This would operate from May to October;
- Open five days a week, beginning with just weekends, not at night;
- Employee five people;
- Tickets and shirts to be sold outside;
- Future museum;
- Offer portable restrooms; and
- Expect seven bikes in use which equals 24 patrons.

Ohlson explained that Site Plan Review is used for commercial uses. Walther was instructed to review the Site Plan regulations and present to the Board an application with something sketched that would show the parking for 30 vehicles, based upon the 24 patrons, which can be drawn on a tax

map. Walther asked if he is at the first meeting in April would he be able to open for Memorial Day. The Board suggested he begin the process as soon as possible.

John Cancelarich questioned the Board on their Rules of Procedure regarding Conflict of Interest. Cancelarich stated that there are members that run STRs, a member has a relative that runs one, a member runs a business that asked about turning it into an STR and another is a member of a realtor’s association. Cancelarich feels that if uncertainty arises a member should disqualify themselves. Buckley, stating that he has rented as an STR, explained that this has been brought before both the Planning Board and Town Counsels and finds no conflict. The Board puts together the language and ultimately the voters decide.

Rick Judkins 351 Glines Hill Road expressed his concerns regarding the STR regulations citing weak life safety, cost to tax payers and the need to enforce whatever is in effect.

Sharon Schilling asked why this Board does not have to be polled regarding their conflict like the Zoning Board does and asked that they do such. Ohlson explained that the ZBA is a quasi-judicial board, this Board is regulatory. Schilling again asked the Board to state if they would stand to benefit from an STR as an owner.

Shawn Bergeron stated that he believes the attorney said that there was not a conflict of interest and Bergeron also expressed his concern regarding the relocation of this meeting having sufficient time.

Karen Dylingowski of Mount Washington Drive asked if it is the intension of the Board to shut down all 170 STRs to which Ohlson stated the goal is the balance property rights.

Hank Walther asked if STRs are legal to which Ohlson stated it can be interpreted that way based upon votes at Town Meeting in March of this year.

Nicole Nordlund of East Madison Road asked all to consider that there are not a lot of people signing up to volunteer for these seats and to accept the Board as it is as anything decided upon will be brought before the voters.

Ohlson closed the Public Comment portion of the meeting.

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Ohlson opened the Public Hearing to consider and accept public input on the following Zoning Ordinance changes:

- The addition of a definition of **Short Term Rental** to Appendix A
- Add a new section 5.13 **Short Term Rentals** by Special Exception

Ohlson read aloud:

SHORT TERM RENTAL—A non residential dwelling unit where lodging with sleeping accommodations is provided for compensation for less than 185 consecutive days.

Add a new section 5.13 **Short Term Rentals**

Short term rentals shall be permitted in all zoning districts without site plan review upon the issuance of a special exception by the Zoning Board of Adjustment. A special exception shall be granted only if the Zoning Board of Adjustment finds that the following criteria are met:

1. The operation and appearance of the Short Term Rental are compatible and not offensive, injurious, or a nuisance to its neighborhood and will not substantially impact the value of the abutting properties.
2. The Short Term Rental will not create traffic or other safety hazard.

All Short Term Rentals shall be subject to the following conditions and requirements:

1. The owner of the Short Term Rental shall provide the name, address, and telephone number of a contact person that resides within the state who is authorized to accept service of process for any legal proceeding brought against the owner of the property.
2. The owner of the Short Term Rental shall provide the name, address, telephone number, and e-mail address of two individuals or management companies that can be contacted in the event the owner cannot be contacted. Said individuals or management companies shall be authorized to act on behalf of the property owner.
3. All Short Term Rentals shall comply with the NFPA 101 Life Safety Code requirements for One and Two Family Dwellings and shall be inspected by the Town of Madison Fire Department prior to approval and every two years thereafter to ensure compliance. At a minimum, the following shall be required:
 - a. Smoke detectors shall be installed and properly functioning in all required locations, including but not limited to each bedroom.
 - b. Carbon monoxide detectors installed and properly functioning in all required locations.
 - c. Primary exits and a secondary means of escape shall be provided and maintained.
 - d. No basement or other below-grade space shall be used as a sleeping area unless compliant exits and a secondary means of escape are provided and maintained.
 - e. A properly sized and fully functional ABC fire extinguisher shall be installed in an obvious location on each level of the Short Term Rental.
 - f. The maximum number of people that the Short Term Rental may be advertised to accommodate shall be two people for each legal bedroom plus two additional people. The number of legal bedrooms shall be determined by the building permit or, if the dwelling unit was constructed prior to the requirement for a building permit, by the number of bedrooms on the approved State of New Hampshire subsurface (septic) approval.
 - g. In the event a Short Term Rental is proposed for a property that does not have a State of New Hampshire subsurface (septic) approval, a subsurface system meeting current State of New Hampshire standards shall be designed and approved for construction by the NH Department of Environmental Services and submitted to the Zoning Board of Adjustment as part of the special exception application. Said approved design shall be maintained on file as part of the special exception approval, but shall not be required to be constructed unless the existing subsurface system fails, at which time, the approved subsurface system shall be constructed and all occupancy of the structure shall terminate until an Approval for Operation for the replacement system is issued by the State of New Hampshire and provided to the Town of Madison.
 - h. Parking for 1.5 vehicles per bedroom shall be provided in a designated parking area on the same property as the Short Term Rental, and all occupants shall be required to park in the designated area.
 - i. The owner of a Short Term Rental shall provide proof of a current NH Rooms and Meals Tax license number.

- j. The owner of a Short Term Rental shall be responsible for:
 - i. Removal of trash and legal disposal of the same off premises.
 - ii. Ensuring that all parking by renters is limited to the property.
 - iii. Ensuring compliance with the specified occupancy limits.
 - iv. Any other site specific conditions imposed as conditions of the special exception.

Ohlson explained that this is a draft to be discussed. This change would make STRs illegal unless they come before the ZBA for a special exception.

Ohlson asked from comments.

Ben Higgins of Modoc Hill Road stated as a realtor he feels this is a good start considering there are no regulation right now. Higgins hoped that the Board would see some of the redundancies and considers changing the wording that requires two management companies be made as contacts.

Ken Ackert feels that the wording of residence versus dwelling unit is confusing and would like to see a requirement for engineered septic plans.

Rick Judkins expressed his concern that the fire department may not be qualified or have the time to perform the inspections. Judkins recommends a remotely monitored safety system, prohibiting below grade sleeping unless can exit directly at grade level and emergency lighting at exits. Judkins hopes the tax payer will not foot the bill for a commercial uses' disposal of trash.

Sharon Schilling expressed a concern regarding the use of "dwelling unit" in the definition of Short Term Rental. Buckley read aloud the definition of dwelling unit and can see a conflict regarding the use of the word transient versus 185 days. This would be a good question for counsel to address.

Karen Dylingowski asked how regulating "shouldn't create a nuisance" is defined. Bergeron assisted by explaining that if a definition is not in the ordinance, a dictionary definition is used.

Peter Murphy of 36 Walnut Loop asked how this will be governed with Ohlson explaining the owner would have to come before the ZBA to become legitimate.

John Cancelarich stated that this is not a permit that can be taken away, a cease and desist can be issued but they can come back into compliance and not loose the ability to STR.

Kathy Koziell expressed concern of compliance issues. How do you complain about a house with thirteen cars and an over occupancy on a weekend and expect it to be rectified?

Karen Dylingowski fears that the townspeople will be burdened with the extra expenses and have to do the policing themselves.

John Arruda, Selectman, stated that the enforcement of the Zoning Ordinance is ultimately the responsibility of the Selectmen and this will begin the enforcement of something that hasn't been addressed in thirty years, to hire someone will be difficult and expensive. It takes going to court to collect any fines that are imposed.

Bill Dempster 157 Doe Drive stated he moved here in 2016. He has read the Zoning Ordinance and it says no STRs. Dempster asks that everyone allow the Selectmen to do their job and enforce what is currently in the Zoning Ordinance.

Kathy Koziell gave statistics obtained from AirDNA that she feels support that STRs in Town are full-fledged businesses creating over 5 million dollar's worth of revenue. The balance of out of staters versus residents owning property is out of balance throughout the state.

Ben Higgins noted that measured steps is a better way to tackle this versus the town of Jackson and Freedom that are being sued for their regulations.

Motion by Allen, seconded by Nordlund to close the public hearing. The motion passed unanimously.

OLD BUSINESS:

Zoning Ordinance Section 1.3B – It was decided that this will be tabled to the next meeting.

CHAIRMAN'S REPORT – No report

SELECTMEN'S REPORT – No report

CORRESPONDECE/ADMINISTRATION – An application for a Voluntary Merger of Pre-Existing Lots for Babineau 105-099 & 105-100 was reviewed and was signed by the Chairman.

ADJOURNMENT: Motion by Allen, seconded by Littlefield to adjourn. All Approved. The meeting adjourned at 8:56 pm.

Respectively Submitted,

Linda Shackford,
Town Administrator