



**TOWN OF MADISON
PLANNING BOARD
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**PLANNING BOARD MINUTES
April 5, 2023**

MEMBERS PRESENT: Marc Ohlson; Paul Marks; Dave Cribbie; Karl Nordlund; Jay Buckley, Alternate Phil LaRoche, Selectmen's Representative, Adam Price

MEMBERS EXCUSED: Paul Littlefield

OTHERS PRESENT: Katharine Young, Land Use Boards Administrator; MadTV Aysia Morency, Daniel Yule, Jory Daniel Bailey, David and Pamela Arel, Charles Ramsdell and Bill Dempster

POSTING DATES & LOCATIONS: Notice was posted on March 20, 2023 at the Madison and Silver Lake Post Offices, in the Madison Town Hall – upper and lower levels. The hearing notice was published in the Conway Daily Sun on March 18, 2023.

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

ELECTION OF CHAIRMAN AND VICE CHAIRMAN:

Ohlson asked the Board for nomination of Chairman.

Motion by Cribbie, seconded by Buckley to appoint Ohlson as Chairman of the Board. Ohlson asked if there were any other nominations or further discussion. There was none. The motion was voted on and passed **unanimously**.

Ohlson asked the Board for nomination of Vice Chairman.

Motion by Buckley, seconded by Cribbie to appoint Marks as Vice Chairman of the Board. Ohlson asked if there were any other nominations or further discussion. There was none. The motion was voted on and passed **unanimously**.

ELEVATION OF ALTERNATES:

Ohlson stated that the Board is in need of two alternates and if anyone knows of anyone interested, to direct them to the Selectmen's office.

Motion by Marks, seconded by Cribbie to elevate Alternate LaRoche as a full voting member. The motion passed **unanimously**.

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

Ohlson asked the Board for a motion to approve the March 1, 2023 minutes as written.

APPROVAL OF DRAFT MINUTES: Motion by LaRoche, seconded by Cribbie to approve the March 1, 2023 minutes as presented. The motion passed **unanimously**.

PUBLIC COMMENT: There was no public comment.

Ohlson closed public comment.

OLD BUSINESS:

Ohlson stated there are two Warrant Articles, Non-Conforming Use and Short Term Rentals. Ohlson asked the Board what direction would they like to go or should they wait another month.

Buckley stated there has been a lot of discussion about some of the existing definitions in the Madison Zoning Ordinance. Buckley stated in 2021, the definition of dwelling unit unintentionally banned Short Term Rentals going forward from March 2022 and this has not been corrected. Buckley stated he has a list of the definitions which he would like added as an Agenda item for the meeting on May 3, 2023. Buckley gave Young a copy of the definitions.

Ohlson stated that something has to be done with 1.3b – Expansion of Non-Conforming Use, which mostly applies around the lakes and is not sure what the Board should do. Cribbie stated at the last meeting that the Board discussed they were going to set a timeline to be better prepared and not doing things at the last minute. Cribbie suggested that going forward, the Board set a deadline of any proposed language changes, etc., the Board may be considering for next year's town meeting. Cribbie suggested the deadline for this should be the September meeting and this should be the drop-dead date for any zoning article for Town Meeting and if any changes are not in by the September meeting, then the Board waits another year. Nordlund was in agreement. Cribbie further stated that his concern is that it is not just that they get in the idea they want to change something for putting it onto the town warrant, but they have a substantial consensus of what they are looking to do and not changing it a hundred times over between the September meeting and January meeting. Cribbie stated they should have some pretty good direction going already so they can fine tune it and he does not want to see what happened last year when they were making substantial changes three weeks before the Public Hearing on January 4, 2023.

Marks stated they need to set an Agenda and focus on those items. Nordlund also agreed and stated that the Board needs to stay focused on the Agenda.

Cribbie stated they should talk with their counsel right after the November meeting. Marks stated counsel should be notified so she can set aside time. Ohlson stated maybe the Board should have a work meeting with Attorney Laura Spector-Morgan and set out what zoning issues the Board wants to address. Ohlson stated so far, they have definitions and 1.3b.

Buckley stated that Shawn Bergeron came to the December meeting with a possible change to zoning for Class VI roads and the Board did not get correct wording from counsel and again, this was last minute and the Board should include this also in the work meeting.

Ohlson asked the Board if they wanted to ignore STR's for a year.

LaRoche asked Buckley about the inconsistencies where the Board voted something out in the previous years and it is still in the regulations and the other issue was a reverse. Buckley stated Article 6 passed in 2022, the definition of "dwelling unit" and there are some other definitions in the existing regulations that conflict each other. LaRoche asked Buckley about something that was stricken years ago and is still in the regulations? Buckley stated commercial business and the word "Commercial" was stricken in 2010 and is still in the zoning regulations. Buckley stated this was a clerical issue and never taken out. Cribbie stated this would not be anything the Board needs to vote on and Buckley stated it was an action taken and voted on and Cribbie asked if Young could research and find the language or vote, then Young would be authorized to make the modifications. Buckley asked Young to research and find the 2010 election/ballot results which show this. Buckley also asked Young to find the ballot results for 2010 relating to transient and non-transient to clarify how these showed up in the definitions for 2018 which he believes was never on the ballot.

Marks stated if they set up a meeting with Attorney Laura Spector-Morgan, STR's should also be discussed. Marks further referred the Board to the Town of Lincoln's Selectmen's Regulations that were given to the Board at the January 4, 2023 Public Hearing and he stated there were some good points in that document that the Board may be able to incorporate. Cribbie stated the first step should be meeting with the Selectmen as the Board is talking about doing something and the Selectmen need to regulate and not the Board and this was his concern as they have talked with the Selectmen before and the Selectmen had no interest in regulating it.

Ohlson stated again that maybe the Board wants to wait a year. Cribbie agreed as the Selectmen have made their position clear the Selectmen did not want to regulate it.

Marks stated the Board needs to have something and they don't need to vote on it or agree on it as they just need to establish something to move forward if the Board wants to do it.

Buckley stated someone at Town Meeting suggested putting on the ballot or a separate Warrant Article asking "**Is the town in favor of STR's, yes or no**". Buckley stated Arruda talked about it three years ago about putting in a referendum but could not do that. Cribbie stated that was correct and town counsel at that time said it did not make any sense.

Ohlson stated that the STR issue is not just an \$80,000.00 problem and if the Selectmen are going to enforce it, it will cost more than \$80,000.00.

Marks stated that there are STR's in town that are grandfathered and these have to be dealt with and something needs to be in place to deal with them and the Board has not done that.

Cribbie's concern is if the Board could hear from a counsel that says differently but the Board's Planning Board counsel told the Board they cannot charge enough of a fee that covers the cost of enforcement of regulations the way the Board was approaching it but Cribbie has heard that other towns do charge fees high enough to cover those costs. Cribbie further stated the recommendation from the Planning Board's attorney was that the Board could not charge anything greater than a nominal fee to cover the processing of the application. Cribbie stated he did not want to see the cost of STR's being borne by people that are not renting their homes short term.

Nordlund stated there needs to be regulations written for owner-occupied short term rentals and there needs to be some wiggle room.

Bill Dempster of 157 Doe Drive stated he was confused and referred the Board to the 2022 Town Report from the Planning Board and quoted the following:

“Currently Short Term Rentals are permitted except for what was in existence before Zoning was adopted. The Selectmen want to enforce the current regulations. We will stay out of their way”.

Dempster asked if the Board was changing their mind (on the quoted paragraph above)? Ohlson stated he wrote this in his report and that is what was done in 2022. Dempster asked Ohlson if he could ask the Selectmen’s Representative, Adam Price a question? Dempster asked if there was a status report on how this is going now? Selectmen’s Representative, Adam Price responded “not at this time”.

Buckley stated that based on Dempster’s question and to Marks point, that the Planning Board should be prepared, for example, if the Selectmen’s enforcement of STR’s, which is unlikely, but if it does and the Town fails, everyone is going to be looking at the Planning Board how to regulate it and the Planning Board needs to be ready. Ohlson stated he could put this on the list with items to talk with Attorney Laura Spector-Morgan or not. Ohlson took a show of hands who wants to ignore STR’s for a year or look at this issue again. LaRoche stated he has been saying for over two years to pump the brakes and do not do anything and he believes the Board should get ahead of it and understand what is coming down the pike and counsel is the only way to go. LaRoche stated that these are property rights, not privileges.

Ohlson stated there is a majority of the Board members that would like to have a work meeting with Attorney Laura Spector-Morgan and Ohlson which will include STR’s.. Ohlson stated they have May 3rd or June 7th for a work meeting. Ohlson voted for June 7th as did, Cribbie, LaRoche, Nordlund, Buckley and Marks.

Ohlson stated if Board Members have anything they want to add to STR’s for discussion, to bring it to the May 3rd meeting so they are ready for the work meeting on June 7th.

PUBLIC HEARING:

Ohlson read aloud the following case:

Case #23-01 – Continued – Boundary Line Adjustment – for agent Bryan D. Berling, Licensed Land Surveyor of Land Technical Service Corp., for property located at 1293 Village Road, Tax Map 118, Lot 27 owned by Daniel & Carolyn Yule and Tax Map 118, Lot 27-1, owned by Jory Daniel Bailey.

Young explained that there was another error in the applicant’s mailing addresses for notification of abutters causing another abutter to not receive proper notice of the meeting and the opportunity to respond.

Ohlson stated that the Board does not need to renotify all abutters, just the one abutter who was not properly notified. Yule stated he would get Young the correct mailing labels and postage.

Ohlson stated that the Board is required by law to notify all the abutters and it is the applicant's responsibility to provide the correct mailing addresses of abutters and if Certified/Return receipt mailings come back unable to deliver because of an incorrect address, then the Board cannot legally proceed with the meeting. Ohlson further stated that the Board is taking this as the legal notification if anyone who wishes to speak to this case to come to the May 3rd meeting at 7:00 pm.

Abutter Arel asked if he could speak. Ohlson stated yes.

David Arel of 35 High Street stated he has concerns about a possible driveway off of High Street. Arel further stated that he and his wife, Pamela, are not in favor of access to this development off of High Street due to safety concerns.

Abutter Ransdell asked if he could speak. Ohlson stated yes.

Charles Ramsdell of 1249 Deer Hill Road stated he was informed by someone that there was going to be a driveway exit off of High Street around the corner and that the applicant was told by someone from the town that this could not be done. Ramsdell stated people drive like it is a race track going up the hill on High Street. Ransdell stated this is a dangerous spot and that he lives there and he does not want to see a driveway off of High Street.

Ohlson stated he did not want this to go any further as this is not the Public Hearing on the two cases.

Yule stated as the former owner of the property, that the High Street intersection has been paved numerous times and every time it was paved it has widened the road to the point where now the original survey done by Thaddeus Thorne shows the pavement now encroaching on the property.

Ohlson reiterated again, that this is not a Public Hearing.

Motion by Cribbie, seconded by Buckley to continue the Public Hearing in its full substance for **Case #23-01** on May 3, 2023 due to an abutter not properly notified. The motion passed **unanimously**.

Ohlson stated the fact that the abutter did not get properly noticed in **Case #23-01**, this also postpones the Public Hearing for **Case #23-02**.

Case #23-02 – Continued – 2 Lot Subdivision – for agent Bryan D. Berlind, Licensed Land Surveyor of Land Technical Service Corp., for property located at the corner of Village Road and High Street, Tax Map 118, Lot 27-1 owned by Jory Daniel Bailey.

Motion by Buckley, seconded by Cribbie to continue the Public Hearing in its full substance for **Case #23-02** to the May 3, 2023 as an abutter was not properly notified. The motion passed **unanimously**.

Ohlson read aloud the following case:

Case #23-03 – Preliminary Review – for Hank Walther, Applicant and Neal Underwood, Owner of 1381 Village Road, Silver Lake, Tax Map 118, Lot 32 to open Silver Lake Railroad in May 2023 using rental pedal-powered track vehicles called “railbikes”.

Ohlson asked if there was anyone present to talk about this case and hearing no response, he closed the Public Hearing at 7:42 pm.

Ohlson stated since the applicant was not present at the meeting for any questions the Board may have. Ohlson asked for a motion to continue the case to the May 3, 2023 meeting.

Young stated this is a Preliminary Review and Ohlson asked Young if the applicant paid the filing fee. Young stated yes, \$50.00. Young further stated that at the November monthly Planning Board meeting, Walther was told to come back to the Board with a sketch for the Boards review of what he was proposing.

Motion by Cribbie, seconded by Nordlund to continue **Case #23-03** to the May 3, 2023 meeting for the convenience of the applicant. The motion passed **unanimously**.

CHAIRMAN’S REPORT: Ohlson introduced and welcomed Adam Price, Selectmen’s Representative to the Board Members.

SELECTMEN’S REPORT: Adam Price, Selectmen’s Representative had nothing to report.

CORRESPONDENCE/ADMINISTRATION: There was nothing to report.

ADJOURNMENT: **Motion** by Cribbie, seconded by Nordlund to adjourn. All Approved. The meeting adjourned at 7:45 pm.

Respectfully Submitted,

Katharine Young
Land Use Boards Administrator