



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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ZBA MINUTES

January 15, 2025

ATTENDANCE: Drew Gentile, Chairman, Sharon Schilling, Vice Chairman, George Rau, Bill Dempster, Marc Ohlson, Alternate and Jennifer Skaife, Alternate

EXCUSED: Doug McAllister and Jake Martin, Alternate

OTHERS PRESENT: Madison TV, Aysia Wellinghurst, Kate Young, Land Use Boards Administrator, Attorney Jonathan Springer and members of the public

CALL TO ORDER: Gentile called the meeting to order at 6:00 pm.

PLEDGE OF ALLEGIANCE/ROLL CALL: Rau led the reciting of the Pledge of Allegiance.

ELEVATION OF ALTERNATES: There was no elevation of Alternates.

Gentile stated than an application was received on December 19, 2024 from GMR Holdings of NH, LLC and that due to a technicality, it was not complete due to some abutters not being notified and the board cannot open the public hearing tonight. Gentile further stated that Jonathan Springer, Esquire, who represents GMR Holdings of NH, LLC asked if he could make a presentation tonight. Gentile stated that there will be no public comment tonight, but that the public will be given plenty of opportunity to speak at a later date.

Jonathan Springer, Esquire stated that he represents GMR Holdings of NH, LLC with the project at King Pine Ski Area and further stated that he understands the issue about the abutter list and he has talked with the Zoning Board's attorney, Timothy Sullivan of Upton & Hatfield and Attorney Springer disagrees that there is an abutter notification issue, but he is not going to argue this point tonight and he will be discussing this further with Timothy Sullivan, Esquire in more detail. Attorney Springer stated if it is decided that he needs to notice additional residents that about the property in Eaton, he will do that.

Attorney Springer stated that tonight, he wanted to give a very brief presentation of the construction of the telecommunications tower and he could answer factual questions only tonight. Attorney Springer stated that he was planning to ask the board tonight for the public hearing to take place at the February 19, 2025 date so that his client can do the balloon testing and then get those results of the testing come back and have the public hearing. Attorney Springer stated that the balloon testing is done by flying a red weather balloon at tower height on the property where the proposed location is and a crew drives around town taking pictures from various vantage points and this will give a good visibility of the cell tower. Attorney Springer further stated that a date would need to be picked for the balloon test as well as a bad weather date and he suggested the testing start early in the morning when the winds are less and continue to about noon time or 1:00 pm and they always pick a bad weather date as well. Attorney Spring stated he wanted to do this before the February 19, 2025 public hearing. Attorney Springer went on to explain that his client is proposing to install a 150 feet monopole

tower on Tax Map 249, Lot 1, which is off King Pine Road in Madison and the owner of the property is Purity Spring Resort, Inc., who owns King Pine Ski Resort. Attorney Springer referred the board to Sheet C-5 which shows the 150 foot monopole which is a self-supporting tower and it will host four carriers with four antennas and each set of antennas would need ten feet of separation between the center line and at the top of the pole at 150 feet and the center line of the first antennas would be 145 feet above ground level and the next set of antennas, the center line would be 135 feet, then 125 feet and 115 feet and the advantage to allowing a larger tower to allow more carriers to go on it, is you get fewer towers in town. He further explained that the base equipment area would have access coming from King Pine Road which has a 12-foot-wide graveled access driveway, underground utilities along the access driveway and the monopole is in the middle of the compound and the carriers will be putting their equipment inside the compound which will be a gravel based. The compound is 50x50 and there will be a stockade fence around the edges of the compound. He further explained the only utilities this site would need, is telephone and electric and there will be no water, sewer, noise or fumes as well as no pedestrian traffic after construction except by a technician doing one to two trips per month to check equipment. Attorney Springer stated he believes there will be visual impact and the tower will not be lit and there will be no advertising.

Attorney Springer stated his client is looking for three variances, one for height and the Madison Ordinance states in Article VI, Section 6.5.A that towers shall not exceed ten feet (10') over the average tree canopy height, the fall zone equal to tower height from all property lines and that all ground mounts be of a mast type pole as opposed to a monopole as the mast is different than the monopole. He further stated that the Code Enforcement Officer stated that they also need a variance, to the extent necessary from Ordinance, which provides that a telecommunication facility "shall not be visible above the ridge line from public roads" and lastly a variance, to the extent necessary from the Ordinance which provides that :any antenna array placed upon...a proposed ground mount...shall have a diameter of no more than for (4) feet exclusive of the diameter of the mount..."

Members of the public called points of order and wanted to be heard. Gentile stated again, that they are not being denied to speak, but this is not a public hearing. Gentile asked the board if they wanted to take questions from the public. The board unanimously decided not to take questions from the public tonight. Gentile stated when the public hearing takes place, the public will be given time to speak. Gentile stated he was closing this section of this meeting.

Attorney Springer stated that it is not the boards fault that abutters may have not been noticed and that he printed the abutters list from the Town of Madison. Mary Lou Dow, a resident of Eaton stated that she is an abutter and was not noticed. Gentile stated that abutters are defined by an RSA and that people have the right to appeal as well as general members of the public.

Gentile stated that the public can submit written comments to the board.

Dempster asked Attorney Springer where would people go to see the balloon testing? Attorney Springer asked the board if there are view points the board would like covered? Skaife stated from the ridgeline from Rt. 153, East Madison Road, Route #113, Rockhouse Mountain, King Pine parking lot and Milts. Attorney Springer stated that once the balloon testing is complete, he would email the testing results to Young and then Young stated she could post them on the Town of Madison's website.

Gentile asked the board if they thought a third-party engineer would be needed. The board unanimously decided to the engagement of a third-party engineer. Young stated she would let Attorney Sullivan know.

Gentile directed the board to the existing short term rental cases. He further stated that the decision for Case #23-13 has been provided and the court granted in favor of the plaintiffs' and the court will remand the case back to the Zoning Board.

Dempster and Ohlson recused themselves from the discussion and both moved to the audience. At 6:40 pm.

Gentile asked the board if they wanted to appeal Case #23-13 and he stated that the Selectboard has decided not to appeal. Gentile asked each board member how they wanted to proceed which answers are as follows:

McAllister stated he did not want to appeal Case #23-13.

Gentile stated he did not want to appeal Case #23-13.

Schilling stated she does not agree with the court and does not understand why the court does not see enough in our ordinance on what the court's opinion of our definitions were, but she agrees not to appeal Case #23-13.

Rau stated he did not want to appeal Case #23-13.

Gentile stated there are two cases which are Case #23-15 and Case #23-18 that have been stayed by the court. Gentile asked all board members if they agreed.

Gentile stated that all three cases, Case #23-13, Case #23-15 and Case #23-18 would be coming back to the Zoning Board and all cases will need to be re-noticed.

Dempster, as a member of the public, asked about the eight remaining cases and further stated that, four properties have been sold. Gentile stated that three cases are in litigation and eight cases are pending.

Dempster and Ohlson returned back to the board as the short term discussion was over.

Gentile stated he had a revision to the October 16, 2024 minutes and he read this aloud to the board and if the board accepted his change, he would email this to Young.

APPROVAL OF OCTOBER 16, 2024 DRAFT MINUTES: Motion by Gentile, seconded by Dempster, to approve the October 16, 2024 minutes with Gentile's amendments. McAllister abstained as he was not present at the October 16, 2024 meeting. The motion was voted and passed with a vote of **3-0-1**.

APPROVAL OF NOVEMBER 20, 2024 DRAFT MINUTES: Motion by Schilling, seconded by Rau, to approve the November 20, 2024 minutes as amended due to grammatical errors. Gentile and McAllister abstained as they were not present at the November 20, 2024 meeting. The motion was voted and passed with a vote of **3-0-2**.

Gentile asked the board since they did not accept the application for Case #24-08, are they following valid procedure. Dempster believed this case should have gone to the Planning Board first, pursuant to our Zoning Ordinance, section 6.3c. Schilling stated she thinks the applicant should get Site Plan approval first and then get Zoning Board approval.

After discussion amongst the board, it was decided that the Planning Board attorney and the Zoning Board attorney need to discuss sections 6.3c and sections 6.4C of the Zoning Ordinance and the Zoning Board needs to know how to proceed. Young stated she would contact Attorney Sullivan about this issue.

ADMINISTRATION: Young had nothing to report.

ADJOURNMENT: Motion by Schilling, seconded by Rau to adjourn the meeting at 7:45 pm. The motion was voted on and passed **unanimously**.

The next Public Hearing of the Zoning Board of Adjustment will be held on February 19, 2025 at the Madison Elementary School Gymnasium at 6:00 pm.

Respectfully submitted,

Katharine Young
Land Use Boards Administrator