



**TOWN OF MADISON  
ZONING BOARD OF ADJUSTMENT  
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**ZBA MINUTES**

**July 16, 2025**

**ATTENDANCE:** Drew Gentile, Chairman, Sharon Schilling, Vice Chairman, George Rau and Doug McAllister

**EXCUSED:** Jennifer Skaife, Alternate and Marc Ohlson, Alternate

**OTHERS PRESENT:** Madison TV, Kasia Scentsas, Kate Young, Land Use Boards Administrator, Attorney Jonathan Springer, Attorney Johnston via telephonically, Mark McConkey, Bill Dempster and members of the public

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

**PLEDGE OF ALLEGIANCE/ROLL CALL:** Chairman Gentile asked Rau to lead in the reciting of the Pledge of Allegiance.

**ELEVATION OF ALTERNATES:** There was no elevation as there were not alternates present.

Chairman Gentile explained that it is the Chairman's prerogative to change the Agenda in comparison to what it was on the public notice, so as long the Zoning Board of Adjustment (ZBA) hears all the cases. He further explained that the ZBA is going to start with **Case #23-20** which has been continued. Chairman Gentile called Attorney Johnson as he will be appearing telephonically tonight. Chairman Gentile asked Attorney Johnson to introduce himself to confirm that the public can hear him clearly. Chairman Gentile explained that this is not a prohibited action. Attorney Johnson explained that he needed to connect his client, Mr. Franklin via telephone. Mr. Franklin was also on the phone. Chairman Gentile introduced himself as Chairman of the ZBA and that there is a four-member board present tonight and he asked Attorney Johnson if he wished to proceed with a four-member board and he introduced himself as Chairman, Sharon Schilling, Vice Chairman, Doug McAllister and George Rau. Chairman Gentile asked Attorney Johnson if he wished to continue and wait for a five-member board or did he wish to proceed with a four-member board. Attorney Johnson confirmed that he and his client were willing to proceed with a four-member board.

**Case #24-08 – Request for Re-Hearing of the Zoning Board of Adjustment's May 21, 2025 Decision**

Chairman Gentile moved this agenda item to be heard after **Case #23-20**.

**Case #23-20 – Appeal from an Administrative Decision (July 16, 2025)**

Chairman Gentile asked Young, Land Use Board Administrator to read the case and posting aloud as follows:

**Case #23-20 – Continued from (October 18, 2023, November 15, 2023, January 17, 2024, February 21, 2024, March 20, 2024, April 17, 2024, May 15, 2024, November 20, 2024, February 19, 2025, March 19, 2025, May 21, 2025, June 18, 2025 to July 16, 2025) - Appeal from an Administrative Decision from Matt Johnson, Esquire,**

Devine, Millimet & Branch, P.A., Agent for Cory, Jade and Cynthia Franklin, 26 Little Shore Drive, Tax Map 104 Lot 096 to determine whether or not their circumstance allows for short term rentals relating to a denial from Robert Boyd, Code Enforcement Officer dated August 16, 2023 as to Article IV, Section 4.6A of the Town of Madison Zoning Ordinance.

**PUBLIC MEETING NOTICE:** Notification of this public meeting was posted in the Town Hall upper and lower levels and Madison and Silver Lake Post Offices on June 5, 2025. Young, Land Use Boards Administrator confirmed this posting did not need to be posted in the Conway Daily Sun.

Chairman Gentile stated that the ZBA had been waiting on information to determine whether Franklin was financially vested prior to the vote and posting date in March, 2022 and he asked Attorney Johnson to proceed with his explanation.

Attorney Johnson explained that he provided an email and updated package via Federal Express on July 11, 2025 to address questions raised by the ZBA. The package included statements from Franklin (signed before a Notary Public), two emails demonstrating the financial interest in the property and just properties in general, a pre-approval certificate from February 28, 2022, and a letter from Milestone, the mortgage lender explaining that the applicants needed the investment income to qualify for purchasing the property which was also provided previously to the ZBA. Attorney Johnson also explained that he asked Franklin to provide to the ZBA one-year of rental history. Attorney Johnson stated that what Franklin was looking for, was a property that they can rent and use personally and they needed it to be investment property, and they located property in Madison. They closed in April, 2022, after the Zoning Ordinance had changed on March 10, 2022. According to Attorney Johnson, his clients did not have any knowledge, or were provided with any knowledge from anyone in the transaction at the time of the closing that the Zoning Ordinance had changed and now prohibited short-term rentals. Attorney Johnson further the family uses the property and provided in the statements how they try to be good neighbors and respectful of the Madison community.

Chairman Gentile asked Attorney Johnson if Franklin was planning to speak and that the ZBA may have questions relevant to him. Attorney Johnson stated that if the ZBA has questions relative to Franklin, than yes. Chairman Gentile swore in Mr. Franklin to testify.

Chairman Gentile asked the ZBA if they had any questions and no one responded. Chairman Gentile stated that what the ZBA is looking for, is evidence that Franklin was financially vested in this project prior to, specifically the vote in March, 2022 as well as the posting date of the ordinance change. Chairman Gentile asked Attorney Johnson if he or Franklin could summarize the sequence of events when the property was chosen and when the loan application was made.

Attorney Johnson explained:

- The property was listed on March 25, 2022.
- The property went under contract with his clients on March 28, 2022.
- The loan application was around late March, 2022 timeframe.
- The property closed on April 29, 2022.

Chairman Gentile asked what in effect, was the earliest date of when there was financial interest, was it February 28, 2022? Schilling stated no, not even then, it is just a preapproval and there is no financial interest, it is just a

letter. She further stated that it would have to be when they went under contract and put money down on the property. Chairman Gentile asked when the property went under contract? Attorney Johnson stated March 28, 2022. Schilling stated that was after town vote. McAllister confirmed the vote was March 12, 2022.

Chairman Gentile asked the ZBA if they had any questions as well as any members of the public who may wish to speak to this case? Bill Dempster wished to speak.

Chairman Gentile swore in Bill Dempster.

***Bill Dempster, 57 Doe Drive*** - Dempster provided two exhibits for the ZBA. The first exhibit he highlighted three key points that deal with this case that the town was working to regulate short-term rentals, including a December, 2021 notice from the Board of Selectmen that went to Eidelweiss folks for the Zoning Ordinance violations and that the Town of Madison was going to enforce the Zoning Ordinance at that time. Secondly, the realtor of record was a 20-year resident of Madison, who was a well-known respected realtor, and the third point is, the applicant's own knowledge of short-term rental restrictions. He explained that there were multiple signs in the town of Madison relative to short-term rentals. He further explained that the second exhibit provided a timeline showing that town meeting was on March 12, 2022, but the actual vote took place on March 8, 2022. He further stated that on March 12, 2022, the new Zoning Ordinance was public with new amendments, the property was listed on March 25, 2022, the contract was signed on March 28, 2022, a Warranty Deed was signed on April 26, 2022 and on April 29, 2022 the property was sold and the mortgage was signed. He further explained that this case is like all the others cases and nothing different as to no prior rental history and Dempster requested that the ZBA deny this appeal.

Young, Land Use Boards Administrator texted Attorney Johnson a picture of the two exhibits Dempster provided and discussed above so he would have them in front of him since he was appearing telephonically with the applicant, Corey Franklin.

Franklin made a statement explaining that the process of looking for a property started in 2021. He stated they were looking for a family second home that they could also supplement some of the costs with renting. He further explained that they needed to rent the property to supplement some of the costs, but not to make a profit. He emphasized that neither their realtor nor the seller mentioned anything about the zoning change, and that they were new to the area and they would not have qualified for the mortgage without the rental income and this came to them as a complete shock that they could not rent. He explained they do not rent to just anyone but are very responsible about who they rent to, have never turned a profit, and have never had complaints.

Dempster asked if the board is considering the claim of vested interest, subsequent grandfathering in this case? Chairman Gentile stated yes, and the only reason the ZBA could grant this is if the applicant can show he is financially vested, because financial investment is a ground for grandfathering in New Hampshire law. He further stated we are here to apply the Zoning Ordinance and the law equitably and not to grant favors, not to be sticklers and are here to hear the facts of the case.

Franklin asked what if he can show they refinanced their home to get the money to buy the property in New Hampshire prior to the Zoning Ordinance change and asked if this would make a difference? Chairman Gentile explained that the ZBA needs firm evidence he was financially vested in this property or some evidence that predates the Zoning Ordinance change.

Dempster explained that what he has read on court cases as to vested interest is that the applicant must have skin in the game, whether they were given some type of contract, whether they inherited it, they had to have some way of securing that property. He further stated he finds that hard to believe because the property did not come up on the market until late March, so how can you have vested interest when they have not shown documents to say they had a vested interest in that property and they can secure the ownership and right to use that property. He further stated that in this case, he does not think vested interest applies. Attorney Johnson stated that the dates are where they are and that the applicant did a lot of financial work to prepare to buy a house and his client did commit and signed the Purchase and Sales Agreement on March 28, 2022 which was after the Zoning Ordinance changed.

Schilling stated that the town vote was March 8, 2022, the Zoning Ordinance was amended on March 12, 2022, the house went on the market on March 25, 2022 and the applicant went under contract on March 28, 2022, a few weeks after the Zoning Ordinance change.

Schilling stated that she felt bad that Franklin was not advised of the Zoning Ordinance change. Franklin stated that he was not advised from his realtor and he understands what the ZBA is saying, but he is in a tough spot and they cannot afford the property with the Zoning Ordinance change and they have since put the house on the market. He further explained if he had known about the Zoning Ordinance change, he would not have bought the house.

After hearing all testimony, Chairman Gentile closed the public hearing and explained that this is now a public meeting and that the board will take no further comment and the ZBA will commence their deliberations and begin collecting the Findings of Fact as noted below:

**Findings of Fact:**

1. Preapproval for a loan was granted on February 28, 2022.
2. Milestone Mortgage Solutions explained in a note dated November 15, 2023, that they had taken into account 75% of the projected rental income as a basis for granting the mortgage.
3. The warrant articles were posted in February 2022.
4. March 8, 2022 was the town election, and March 12, 2022 was the town meeting. Those events together resulted in the ordinance change.
5. March 25, 2022, the house at 26 Little Shore Drive was listed.
6. March 28, 2022, the property was under contract with Mr. Corey Franklin.
7. April 29, 2022, the deed was recorded.
8. August 30, 2023, a cease-and-desist order for short-term rentals was issued by the code enforcement officer.
9. October 3, 2023, they applied for an appeal from an administrative decision.

The Board deliberated on whether the applicants were financially vested in the property prior to the Zoning Ordinance change. They determined that the earliest date of financial interest was March 28, 2022, when the contract was signed, which was after the March 8, 2022 vote.

**Motion** by Gentile, seconded by Schilling, to deny the appeal because the date of the contract on 26 Little Shore Drive was March 28, 2022, three weeks after the Zoning Ordinance change and approximately seven weeks after the date of the posting of the warrant article, and the Board found no evidence submitted that the applicant was financially vested in this property, prior to the vote.

**Roll Call Vote: Schilling – Aye; McAllister – Aye; Rau – Aye; Gentile – Aye;  
The Motion passed 4-0.**

Chairman Gentile informed those present that if one wishes to appeal, one must act within 30 days of the date on the notice, with the first step being to apply to the Board of Adjustment for rehearing and he closed **Case #23-20**.

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Chairman Gentile stated that for the Zoning Board to proceed to **Case #24-08**, the board needs to approve the minutes of April 16, 2025 and the May 21, 2025, which was the date the decision was made.

**Approval of Draft Minutes:**

**Motion** by McAllister, seconded by Rau to approve the minutes of April 16, 2025 as amended due to typographical errors. The motion was voted on and passed **4-0**.

**Motion** by Gentile, seconded by McAllister to approve the minutes of May 21, 2025 as amended due to typographical errors. The motion was voted on and passed **4-0**.

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**Case #24-08 – Request for Re-Hearing of the Zoning Board of Adjustment's May 21, 2025 Decision**

Chairman Gentile explained that this is a public meeting and not a public hearing so there will be no public comment. Chairman Gentile explained that the ZBA is only considering whether to re-hear this case and that the ZBA is not considering the merits of the case. He further explained that pursuant to RSA 677:2, the Zoning Board generally grants a re-hearing when the grounds for the motion identify an error in procedure or law, or when new evidence is presented that was not available at the time of the public hearing. The ZBA may also grant a re-hearing should it find grounds in its own review of the case within the 30-day appeal period.

Chairman Gentile stated that after consultation with Counsel, we thought it was prudent to expand on tonight’s decision, given the length of the applicant’s Motion for Re-Hearing the last thing he will do on this case is ask the board if, in their review of this case, they feel there is a reason that the board should re-hear the case, even if it has nothing to do with the grounds that the applicant has submitted.

Chairman Gentile read the following aloud and explained that the board does not have to accept the wording and he read as follows:

***“This is summary of the board’s review of the grounds set forth requesting a re-hearing in light of the above criteria.***

***The applicant has set forth in his motion, Point 2, eight subpoints in which he contests various Findings of Fact identified by the ZBA in its original Notice of Decision. These findings were made after carefully reviewing the testimony and information submitted in multiple public hearings. This information included conflicting evidence, which required the ZBA to resolve that information. Mr. Benson’s testimony is part of the record and Attorney Springer reviewed the testimony submitted in writing on April 28, 2025 after this testimony was submitted. Though the applicant disagrees with the***

***board's findings, there is no new evidence presented which supports an error in either law or procedure, nor is there new evidence presented."***

Chairman Gentile explained that this is one option. Chairman Gentile stated that the other option is that the ZBA has reviewed these things and the ZBA disagrees with one of those points and they think the ZBA should rehear the case.

Attorney Springer requested that Chairman Gentile read aloud the above paragraph again which Chairman Gentile did.

Chairman Gentile asked the board if they wanted to review Attorney Springer's eight points? Rau stated yes as well as Schilling. Chairman Gentile read the following aloud:

***"Certain Findings of Fact set forth in the Notice of Decision (dated May 21, 2025 and as noted in the minutes dated May 21, 2025 on Pages 3-4) are incorrect and /or legally erroneous as follows:***

- (a) The Denials to a great extent rely upon the proposed Vertex Tower in Freedom, NH (the "Vertex Site".) See Finding #4. The Vertex Site does not currently exist, and may never be built....***
- (b) The Decision states that "the coverage gap... extends approximately 7 miles along Route 153" Finding #2. In fact, the gap in coverage along Route 153 is only one portion of the significant gap in coverage. As made clear by GMR's Radio Frequency Report....***
- (c) In addition, the RF information for the Vertex Site which the Board reviewed does not include any analysis of the coverage provided by the Vertex site from any height except the absolute top spot (145') on the proposed tower. Thus, the lack of coverage from the Vertex Site over the entire gap in coverage will only become more pronounced the lower a carrier is positioned on the Vertex tower. Further, no information was provided regarding the RF coverage from the Vertex Site in the 1900 MHz band....***
- (d) The Decision states that the "Madison Zoning Ordinance requires that the Planning Board reviews whether this site is the only feasible location to provide the needed coverage, which has not yet been done." Finding #7. There is no legal requirement that, in order to obtain its requested variances, GMR first has to obtain Planning Board approval. Further, neither the Town's Zoning Ordinance nor Site Plan Regulations contain a requirement that an applicant must prove that a site is "the only feasible location." Also, it is undisputed that the proposed GMR location is allowed as permitted pursuant to Article XI.6.3(A) of the Ordinance. If it is the ZBA's position that the only way an applicant can truly know whether a tower is allowed in a permitted zone is by applying (perhaps, multiple times) to the Planning Board, then this position is clearly illegal and erroneous under New Hampshire and federal law.***
- (e) Regarding the Findings #8 and #10, neither Dr. Kent Chamberlain nor Colton Dow are radio frequency engineers, nor have they ever designed a cellular network, nor did they submit any materials such as RF plots supporting their allegations that establish, in words of Finding #8, "the proposed tower does not make sense in terms of providing the desired coverage"....***
- (f) Regarding Finding #9, a careful review of the February, March and April ZBA shows that Mr. Benson never spoke at a hearing and never suggested his property as an alternative at a hearing. The ZBA never discussed that property or even identified its location at any of those hearings. The first time GMR ever heard the name "Benson" was at a May hearing, after public comment ended and the hearing was closed. At that time there was a short statement to the effect that the Benson property might be an alternative location, but again, that property was never identified.... Chairman Gentile stated that was just addressed.***

- (g) The proposed tower, which has been reduced to 130 feet, will have extremely limited visual impact, if any, as shown by the visual study (balloon test). Finding #12 essentially requires a cell tower to be invisible....**
- (h) INFORMATION NOT SUPPLIED BY ATTORNEY SPRINGER**
- (i) The University of Southern Alabama study, Finding #15, is not a real estate appraisal. That study makes the incredible assertion that if a cell tower project cannot be heard or seen, it can still devalue real estate values; if this “finding” is adopted by the ZBA in this case it makes it virtually impossible for any cell tower project in the future to receive any variance.”**

Chairman Gentile stated that was **Point #2** and he read the ZBA’s response to this as follows:

**“The applicant has set forth in his motion eight subpoints in which he contests various Findings of Fact identified by the ZBA in its original Notice of Decision. These findings were made carefully reviewing the testimony and information submitted in the public hearings. This information included conflicting evidence, which required the ZBA to resolve that information. Mr. Benson’s testimony is part of the record and Attorney Springer reviewed the testimony submitted in writing on April 28, 2025 after this testimony was submitted. Though the applicant disagrees with the board’s findings, there is no new evidence presented which supports an error in either law or procedure, nor is there new evidence presented.”**

Chairman Gentile asked that as far as **Point 2** is concerned, how does the board feel and are they comfortable with the statement Chairman Gentile recited above or does the board find that there is grounds for a re-hearing? Chairman Gentile stated that the board did not have to answer that question as this moment, but gave the board members time to think about it. Chairman Gentile stated he will go onto the other points and then the board can consider the whole issue.

Chairman Gentile read the following aloud from the Motion for Re-Hearing as follows:

**“3. The height variance was denied for three reasons: (i) the property values are negatively affected; (ii) the character of the neighborhood will be “marketability impacted” (iii) the location is not required to provide....**

**4. Regarding the property value issue, it was error for the ZBA to reject actual real estate appraisal reports, where the appraisers actually spoke with buyers and/or buyer’s agents, who stated that a visible cell tower had no impact on the sales prices. Rather the ZBA relied upon the University of Southern Alabama study. In addition to the faulty finding that a cell tower which cannot be heard or seen can somehow impact property values....**

**5. Regarding the character of the neighborhood, the ordinance allows a cell tower in this location. GMR’s location is not in a residential neighborhood, rather, it is located on a large commercial use property. The host property is a large, commercial ski area which, upon information and belief, generates a large amount of traffic, people and other traits....**

**6. Regarding the service to Route 153, again, the Vertex Site does not exist and may never exist. If it is never built, the significant gap in coverage remains. Further, as stated above, no consideration was given to lower heights on the Vertex tower nor to the 1900 MHz band. Route 153 is only one part of the coverage objective for the GMR project.**

**7. Regarding the denial of the variance regarding visibility above a ridge line from a public road, the Decision fails to identify what ridgeline the tower would rise above. (GMR's attorney had requested during one of the hearings that if the ZBA was going to apply this requirement to the GMR project that the ZBA specifically identify which ridgeline was at issue, but the Decision fails to do that.) GMR submitted an exhibit regarding the ridgelines, copy of which is attached, which shows that the GMR tower will not exceed any of the ridgelines, especially when reduced to a height of 130 feet....**

**8. The Decision states that the project would significantly impact the rural nature of the area, and would not create an unnecessary hardship "because the location is not optimal." Again, the location is a permitted use under the ordinance, and therefore it is legal error for the ZBA to deny the application on these bases. Further, the Decision states that there will be negative impact on property values; for the reasons stated above, there will in fact be no impact on property values. Finally, the Decision states that the "location is not necessary to provide this service." Again, if this is a reference to the Vertex Site, that site does not exist now and may, in fact, never be built.**

**9. For all of the foregoing reasons, the ZBA should rehear and reconsider the Denials and, upon rehearing and reconsideration, grant the requested variances."**

Chairman Gentile read aloud the ZBA's responses to Points 3-9 contained in the Motion for Re-Hearing as follows:

**"The applicant has similarly presented in Points 3 through 8 a series of arguments that put forth the reasons why the applicant disagrees with the board's findings but provides no new evidence nor is there a definitive argument that an error of law or procedure was committed. The Board resolved conflicting testimony related to property values, and made its findings, which are supported by the record.**

**The applicant claims that there is no legal basis under the ordinance for a requirement that there is no other feasible location. When considering a variance request, the ZBA is required to consider the spirit and intent of the ordinance.**

**Article 6.1 and Section D. of the ordinance states: The rural and environmental qualities are to be preserved also. The intent and goal of this ordinance is to permit wireless telecommunications facilities in the Town of Madison and to...Permit construction of new towers only where all other reasonable opportunities have been exhausted."**

**"As noted in the Decision, there were other reasonable opportunities presented which have not been exhausted.**

**In the case of Point 7 the applicant points out that the specific ridge which is visible is not identified in the Notice of Decision. The location of the proposed tower is nevertheless clear in the existing record in the form of the minutes of the meeting, the balloon test report, and public testimony. The location of the tower and balloon tests as well as the locations from which the balloons at 130, 150 and 170 feet are visible are clear in the record in the balloon test and in the minutes of April 16, 2025 on Page 2 and May 21, 2025 on Pages 7 and 19 as**

***well as public testimony, such as Mr. Colton Dow’s documentation of March 5, 2025. So the board has a basis to support the board’s findings on this variance request.”***

Chairman Gentile asked the board if they find the arguments for the re-hearing, as stated by the applicant sound? Chairman Gentile stated that the board is not debating the merits of the case and we are not actually debating whether or not the board agrees with the findings or not, but we are deciding on whether or not the grounds presented, represent substantial disagreement with our findings or whether they actually uncover a serious error on the board’s part. Chairman Gentile stated that he does have permission to say that he does not believe there are grounds of a clear and indisputable error in fact or law. Chairman Gentile stated that the board is free, however, to decide that we need to rehear this case. He further stated that he can now ask the board, apart from the grounds that have been presented by the applicant, do any of the members see a reason why, on our own independent evaluation of the case, that we should rehear the case. He further stated, if the board is dissatisfied in any way with our case, do you think that we have made an error or something inconsistent, now is the time to say it. The members all stated no and Schilling stated that she believes there is disagreement with regard to the applicant on our decision but she does not find that the board’s decision has procedural or legal errors in it. Chairman Gentile asked the board members if they were comfortable with the comments he has made and if that is the case, the board can then move to deny the re-hearing which would allow the applicant the option to move to the next level.

**Motion** by Schilling, seconded by McAllister to deny the request for Re-hearing because there is no clear or indisputable evidence of an error in law or procedure and there is no new evidence presented.

**Roll Call Vote: Schilling – Aye; McAllister – Aye; Rau – Aye; Gentile – Aye;  
The Motion passed 4-0.**

Chairman Gentile closed **Case #24-08**.

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**Case #25-05**

Chairman Gentile asked Young, Land Use Boards Administrator, to read **Case #25-05** aloud as follows:

**Case #25-05 – Variance** requests by Mark McConkey, Agent for Samuel Shriro for property located at 14 Little Loop Road, Tax Map 109, Lot 121, **Article V, Section 5.9 C** of the Zoning Ordinance, to permit the house to be 69.54 feet from mean high-water mark of Pea Porridge Pond, where 75 feet is required. Also, to permit the deck to be 62.79 feet from the mean high-water mark of Pea Porridge Pond, where 75 feet is required and **Article V, Section 5.9 E** of the Zoning Ordinance, to permit the house to be 55.55 feet from center line of the road way where 65 feet is required.

**PUBLIC MEETING NOTICE:** Notification of this public meeting was posted in the Town Hall upper and lower levels and Madison and Silver Lake Post Offices on June 25, 2025 and posted in the Conway Daily Sun on June 28, 2025.

**Conflict of Interest:** Chairman Gentile polled the board and confirmed there was no Conflict of Interest.

**Waiver Request:** There was no Waiver Request submitted with the application, however there was a septic plan submitted with the application which Chairman Gentile polled the board and they accepted the plan as presented.

**Regional Impact:** Chairman Gentile polled the board and there was no Regional Impact.

Mark McConkey explained that on May 22, 2023, a variance was requested and granted with conditions for the same property. However, the applicant did not act within the required two-year period and the variance had sunsetted. McConkey stated he was presenting the same application again.

Paul Rigazio, Trustee of Eagles Rest Trust, which owns the abutting property, expressed confusion regarding the application. He noted that the notice received stated the house would be 69.54 feet from the water, but according to meeting minutes from the previous variance hearing, the house had been moved to 75 feet from the water.

Upon examination of the plot plan, it was determined that there was confusion between the original application (which showed a house at 69.54 feet from the water) and the revised plan that had been approved (which showed the house at 75 feet from the water and closer to the road). The plan showed both the original and revised house locations, with the darker line representing the approved location at 75 feet from the water.

Rigazio also objected to the deck being within the 75-foot setback, noting that his own request for a deck extension within the setback had been denied years ago.

Chairman Gentile explained that each case is considered individually based on its merits and that variances don't set absolute precedents.

The Board determined that the application as submitted, did not accurately reflect what was previously approved and what the applicant was now requesting. McConkey agreed to continue the case and submit a new application that clearly stated the correct dimensions.

**Motion** by Gentile, seconded by Schilling, to continue **Case #25-05** to September 17, 2025 at 6:00 PM at the Madison Town Hall, Lower-Level Meeting Room.

**Roll Call Vote: Gentile – Aye; Schilling – Aye; Rau – Aye; McAllister – Aye;**  
**The Motion passed 4-0.**

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**Case #25-04**

Chairman Gentile stated that he accepts a three-member board to hear his case and he stepped down as Chairman from the board to present **Case #25-04**. Vice Chairman Schilling presided over this portion of the meeting.

Vice Chairman Schilling asked Young, Land Use Boards Administrator to read **Case #25-04** aloud as follows:

**Case #25-04 – Variance** request from Drew Gentile, Agent for The Gentile Family Revocable Trust of 2023, 89 Conway Road, Tax Map 228, Lot 033, Sub Lot 002, from Article V, Section 5.5 of the Zoning Ordinance to permit an overall height of 37 feet where 36 feet is the standard.

**PUBLIC MEETING NOTICE:** Notification of this public meeting was posted in the Town Hall upper and lower levels and Madison and Silver Lake Post Offices on June 5, 2025 and posted in the Conway Daily Sun on June 7, 2025.

**Conflict of Interest:** Vice Chairman Schilling polled the board and there was no Conflict of Interest.

**Waiver Request:** Vice Chairman Schilling stated the applicant has presented a Certified Plot Plan with his application and she polled the board and the board accepted the Certified Plot plan as presented.

**Regional Impact:** Vice Chairman Schilling polled the board and there was no Regional Impact.

Gentile explained that the structure of the house, including the chimney, is 34.5 feet high. However, due to the high-water table (24 inches), the architect recommended placing the house 18 inches above grade at the high end. Because the property slopes, the floor is 36 inches above grade at the low end. This adds 9 inches to the 34.5-foot height, resulting in a total height of 36 feet 9 inches above grade.

Gentile noted that the variance request only applies to the chimney, which extends 2 feet above the ridgeline. He explained that the chimney installer recommended keeping the chimney close to the ridgeline to prevent damage from snow load, which would otherwise require unsightly guy wires if placed lower.

The proposed house would be 300 feet from Conway Road with no other structures nearby. The application included the architect's drawing showing the floor elevation and addressed the five variance criteria.

Vice Chairman Schilling asked for a motion to close the public hearing.

**Motion** by McAllister, seconded by Rau to close the Public Hearing.

**Roll Call Vote: Schilling – Aye; Rau – Aye; McAllister – Aye;**

**The Motion passed 3-0.**

Vice Chairman Schilling stated the board was now going to collect the Findings of Fact as follows:

**Findings of Fact:**

1. The structure is to be built on a registered family cluster.
2. The proposed structure meets all setback and frontage requirements.
3. The property slightly slopes to the south.
4. Seasonal high water requires a subfloor to be 18 inches above grade at the higher end to eliminate the possibility of water intrusion.
5. The structure height will be 36 feet 9 inches, including the chimney, due to the average slope of the property.

**Motion** by Schilling, seconded by Rau to re-open **Case #25-04** for clarification from Gentile as to the chimney.

**Roll Call Vote: Schilling – Aye; Rau – Aye; McAllister – Aye;**

**The Motion passed 3-0.**

Gentile explained to the board that the structure height will be 36 feet 9 inches including the chimney, due to the average slope of the property.

**Motion** by Schilling, seconded by McAllister to close the Public Hearing.

**Roll Call Vote: Schilling – Aye; Rau – Aye; McAllister – Aye;**

**The Motion passed 3-0.**

The Board then considered the criteria for the variance as follows:

- Special conditions of the property include an unusually high-water table.
- The home is a normal-sized New England colonial that will not obstruct views or restrict light to other structures.
- The variance only affects one foot of chimney height.
- The use is reasonable, as it's a two-story New England colonial with a lower profile design.
- The presence of a wood stove for backup heating is highly desirable and normal for the neighborhood.
- The variance is not contrary to the public interest and maintains the character of the neighborhood.
- Substantial justice is done by preventing the expense of redesigning a normal house for no public gain.

**Motion** by Schilling, seconded by McAllister to approve the application of a one-foot variance on height from the required 36 feet to the actual 37 feet.

**Roll Call Vote: Schilling – Aye; Rau – Aye; McAllister – Aye;**

**The Motion passed 3-0.**

Vice Chair Schilling informed Gentile of his right to appeal the board's decision within 30 days and she closed **Case #25-04.**

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Gentile returned to the board and assumed his position as Chairman for the remainder of the meeting,

**Administration:** Young, Land Use Boards Administrator informed the board that Attorney Johnson had filed a Motion for Rehearing for **Case #23-14** and that the 30-day period would expire before the August 20, 2025 meeting. She further explained that the Board would need to hold a special meeting. The board and Young discussed dates and times and it was agreed the board would meet on Friday, July 25, 2025, at 9:00 AM at the Madison Town Hall, Lower Level.

Chairman Gentile acknowledged that Rau would be stepping down from the Board. He thanked him for his many years of helpful service. Rau expressed his appreciation for his time on the Board and his admiration for how the members made decisions.

**ADJOURNMENT:** **Motion** by McAllister, seconded by Gentile to adjourn the meeting at 9:35 pm. The motion was voted on and passed **4-0.**

The next Public Hearing of the Zoning Board of Adjustment will be held on August 20, 2025 at the Madison Town Hall, Lower level at 6:00 pm.

Respectfully submitted,

Katharine Young  
Land Use Boards Administrator