



**TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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ZBA MINUTES

August 20, 2025

ATTENDANCE: Drew Gentile, Chairman, Sharon Schilling, Vice Chairman, Doug McAllister, Richard Ventura, Jennifer Skaife, Alternate and Marc Ohlson, Alternate

EXCUSED: All members and alternates were present.

OTHERS PRESENT: Madison TV, Kasia Scentsas, Kate Young, Land Use Boards Administrator, Mark McConkey and Paul and Alma Rigazio

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

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

ELEVATION OF ALTERNATES: Chairman Gentile noted that there were six people present tonight, including Rich Ventura, who is attending his first meeting officially on the board. Chairman Gentile elevated Ohlson and Skaife to full voting members for the meeting. He further explained that Ventura can be involved in the discussions but the five members will be voting tonight. Chairman Gentile stated that process wise, that decision is the Chairman's discretion, though he noted, he would not do it if the board objected.

There was brief discussion about the process for permanently changing status from an alternate to a regular member, with clarification that the Board of Selectmen has the authority to appoint members, unlike the Advisory Budget Committee which is elected.

Case #25-05

Chairman Gentile stated that **Case #25-05** is a repeat of an earlier case wherein the Notice of Decision expired. He further explained that this case is continued from last month because of erroneous dimensions presented at that meeting. Last month, the board requested the applicant to submit a new application with the correct information and that is what we are hearing tonight.

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

Case #25-05 – Variance requests from Mark McConkey, Agent for Samuel Shriro for property located at 14 Little Loop Road, Tax Map 109, Lot 121, **Article V, Section 5.9 (E)** of the Zoning Ordinance, to permit the house to be 49.90 feet from the centerline of the road way where 65 feet is required. **Also**, a variance request from **Article V, Section 5.9 (C)** of the Zoning Ordinance to permit the deck attached to the house to be 64.60 feet from high water mark of Pea Porridge Pond where 75 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 July 30, 2025 and posted in the Conway Daily Sun on August 7, 2025.

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

Waiver Request: Chairman Gentile stated the board granted the waiver at the July 16, 2025 public hearing.

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

Chairman Gentile explained that at the July 16, 2025 public hearing, the agent and abutters were previously sworn in.

Mark McConkey agent for the applicant, explained that this application was a resubmittal of a previously approved variance that had expired. He noted they had cleaned up the application to reflect the distances accurately, following confusion at the previous month's meeting. The property in question has a green outline on the plan showing the zoning envelope. The house would be set back from the water to meet the 75-foot setback requirement, but the deck would be 64.6 feet from shore. The house would be 49.9 feet from the centerline of the road where 65 feet is required. McConkey explained they had previously turned the building to accommodate concerns raised in earlier hearings.

Paul and Alma Rigazio (abutter) 10 Little Loop Road – Mr. Rigazio explained that he is an abutter to the Shriro property and when he and his wife bought their property, they purchased three lots and combined the three lots into one lot with one house. He further explained that he understands that the applicant is in a difficult position, due to the small lot size, but he raised two concerns as follows:

1. **The deck variance** - He explained that in 2005, his own request for a 10-foot deck extension was denied by the Zoning Board of Adjustment. He objected to granting the deck for the applicant's variance while suggesting a patio as an alternative.
2. **The driveway** - He requested that no driveway be permitted on the west side of the property adjacent to his lot.

Chairman Gentile explained that the driveway is not part of the request for a variance. Rigazio explained the driveway is right near the septic system. Chairman Gentile explained the board can put conditions on variances that they grant and that he understands Mr. Rigazio's request. McConkey stated he was agreeable to make a condition and show it on the plan.

McConkey's response is as follows:

- The compromise proposed, was that the deck would not be higher than the first-floor level.
- The board's prior decision from 2005 does not bind the current board and each board makes their own decisions.
- A deck would allow residents (often elderly people) to walk straight out from the house.
- The deck would not be enclosed or covered and he would like to proceed with what is in front of the board as presented tonight and that this is a reasonable request.

Schilling asked if there would be stairs from the deck to the ground? McConkey explained he was not sure, but that some towns count the stairs. Schilling explained she did not believe the stairs could go beyond the 64.6

feet. Rigazio stated he believes the stairs would have to be on the side. Chairman Gentile explained that the board cannot determine where the stairs are needed but if necessary, cannot be closer than 64.6 feet.

Alma Rigazio – She explained that they have had to live with the 75’ setback and now the board is allowing the applicant 65’. Chairman Gentile stated that the board has a protocol to follow and not what has happened to a neighbor. He further explained that the board needs to consider the five criteria to grant a variance.

Board members sought clarification about the deck's height and construction. Skaife noted that given the topography (with just a 2-foot drop), the deck would be close to ground-level at the outer edge and would not significantly impact sight lines. The board confirmed the deck would be at first-floor level with a maximum height of 2-3 feet at the far end. The board also clarified that no stairs were shown on the plans and any future stairs could not encroach closer to the lake than the variance allowed.

Chairman Gentile explained the board is going to compose the Findings of Fact as follows:

Findings of Fact:

1. The house meets the 75-foot setback requirement from the shoreline.
2. The house will be 49.9 feet from the centerline of the road where 65 feet is required.
3. Because the building envelope based on the setback requirements is inadequate to build a home, this kind of variance is necessary.
4. The board favors the setback from the lake over the setback from the center of the road.
5. These conditions are common in the neighborhood because the lots are small.
6. The deck will extend into the 75-foot setback from the shoreline by 10.4 feet.
7. This is the same variance request as **Case #23-03** which was granted, but expired before construction could begin.

Chairman Gentile asked for a motion to close the Public Hearing.

Motion by McAllister, seconded by Schilling to close the Public Hearing. The motion was voted on and passed **5-0**.

Chairman Gentile explained that the board is now going to deliberate on the five criteria from the application as presented, and reviewed this with the board as follows:

Findings on the five conditions for a variance:

1. The variance will not be contrary to the public interest because:
 - Many of the homes in this subdivision predate zoning and many of the homes constructed prior to the enactment of the ordinance are similarly located without meeting current setback requirements. The proposed location of this home is a compromise nearly meeting town setbacks and maintaining a reasonable buffer from the shoreline. The proposed construction will not alter the character of the neighborhood and will not threaten the health, safety, or welfare of the public.
2. The spirit of the ordinance will be observed (answers for both 1 and 2 together):
For the variance to be contrary to the public interest, and for it to violate the spirit of the ordinance, it must unduly and to a marked degree violate the basic objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

- The Madison Zoning Ordinance permits variances to be granted and the zoning preamble state that the purpose of the ordinance is to promote health, safety, and the general welfare of the inhabitants of the Town of Madison.
- The proposed home is modest and is nearly in the same footprint that the ZBA granted a variance on May 17, 2023. The variance requested today, will not alter the character of the neighborhood and will not threaten the health, safety, or general welfare of the public, so that this request is consistent with the spirit of the ordinance.

3. Substantial justice is done because:

Any loss to the individual which is not outweighed by a gain to the public is an injustice.

- The test for a variance is that: any loss to the individual which is not outweighed by a gain to the public is an injustice.
- The owner proposes to: Construct a home, deck, driveway, and a septic system.
- The owner’s development is mindful of both the water and the Village of Eidelweiss new septic offset from the roadway. Residents driving by will note a similarly developed property as others in this neighborhood and no abutting owner will lose a primary water view after it is constructed. There is no demonstrable loss to the public in granting the variance.”

4. The values of surrounding properties are not diminished because:

- The proposed construction will not diminish the values of the surrounding properties as other homes in this neighborhood have undergone similar home builds and that construction has not lowered the neighboring home values to date.

5. Literal enforcement would result in unnecessary hardship because owing to the special conditions of the property (1):

There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

- The lot is narrow at the roadway (80.1’), shallow on the west side (126.98’), the eastern side boundary is longer (152.68’) and is bordered in the rear, by the channel. The resulting eclectic shaped zoning envelope would only permit an 8’ by 40’ trailer or a 12’ by 18’, tiny home to be constructed inside the zoning envelope, without zoning relief.
- Instead, we have proposed a more traditional building configuration (660 sq ‘ home) with an outside deck. The proposed home is 75’ from the water, far greater than the required State Shoreland standard of 50’. The open deck is (64.6’) from the water short by 10.4’ from the Eidelweiss setback of 75’. The proposed home will be 49.9” from the centerline of the road, where 65’ is required. There are several homes on Little Loop that are closer than 75’ to the water and at least four homes on this road are closer to the centerline than what we are requesting relief from. The approved septic system meets both the state and the Eidelweiss setback requirements.

The proposed use is a reasonable one because:

- Article 1, Section 1.3: (from the Madison Zoning Ordinance) that: Undeveloped nonconforming lots may be developed with any use permissible in the zoning district without compliance with minimum lot size, frontage or dimensional requirements, so long as sufficient off-street parking for any such proposed use is provided with the property boundaries. This lot is a non-conforming lot. The use is residential and has space for the required parking. In addition, there is a septic system approval, and the shoreland permit has been issued which includes a

stormwater management system. A residential use is a reasonable request for this neighborhood.

(2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Chairman Gentile asked the board if they need to restrict the deck to a patio? Schilling explained that we do not need to discuss and dictate if they should have a patio instead of a deck and that decks are allowed in the neighborhood.

Chairman Gentile asked the board for a motion.

Motion by Gentile, seconded by Schilling moved to grant the variance for **Case #25-05** as specified in the application with the following conditions that:

- The deck will be no higher than the first floor of the dwelling unit.
- The deck may not be covered or enclosed.

The motion was voted on and passed **5-0**.

Gentile read aloud the provisions of the 30-day appeal period. Gentile closed **Case #25-05**.

APPROVAL OF DRAFT MINUTES – June 18, 2025, July 16, 2025 and July 25, 2025

Chairman Gentile stated the board is now going to review the draft minutes.

Motion by Schilling, seconded by McAllister to approve the June 18, 2025 minutes as amended due to typographical errors. The motion was voted and passed **5-0**.

Motion by Schilling, seconded by Ohlson to approve the July 16, 2025 minutes as amended due to typographical errors. The motion was voted and passed **5-0**.

Motion by Gentile, seconded by McAllister to approve the July 25, 2025 minutes as amended due to typographical errors. The motion was voted and passed **5-0**.

Chairman Gentile explained that Young, Land Use Boards Administrator, has received a Motion for Re-Hearing from Attorney Johnson on **Case #23-20** on August 18, 2025. He further explained that this case will be on the September 17, 2025 Agenda as a Public Meeting.

ADMINISTRATION: The Board discussed a procedural issue regarding appeal deadlines. They clarified that when the 30th day of an appeal period falls on a non-business day, the deadline automatically extends to the next business day. The Board agreed to add a footnote to their Rules of Procedure to clarify this point, consistent with court procedures.

ADJOURNMENT: **Motion** by Schilling, seconded by Ventura to adjourn the meeting at 8:10 pm. The motion was voted on and passed **5-0**.

The next Public Meeting and Public Hearing of the Zoning Board of Adjustment will be held on September 17, 2025 at the Madison Town Hall, Lower level at 6:00 pm.

Respectfully submitted,

Katharine Young
Land Use Boards Administrator