

Subject to Approval

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
Jan. 5, 2016**

The public hearing and regular meeting of the Madison Zoning Board of Appeals was conducted Tuesday, Jan. 5, 2016, at 7:30 p.m. in Meeting Room A at Madison Town Campus.

MEMBERS PRESENT

Chairman Ronald Cozean, Vice Chairman Jeanne W. Stevens and Commissioner Ned Moore.

MEMBERS ABSENT

Kenneth Kaminsky and Thomas Kelty

ALTERNATES PRESENT

Charon Squitiero and William H. Piggott

OTHERS PRESENT

Zoning Enforcement Officer John De Laura; members of the public; MCTV taped the meeting.

The public hearing and regular meeting of the Madison Zoning Board of Appeals was called to order at approximately 7:30 p.m.; Chairman Ronald Cozean introduced the board and reviewed procedures; by state statute, four votes are needed to approve applications, and a simple majority is not sufficient. Alternate Commissioner Charon Squitiero was seated for absent Commissioner Kenneth Kaminsky and Alternate Commissioner William H. Piggott was seated for absent Commissioner Thomas Kelty. The legal notice, as published, was read into the record. Agenda items were taken in the order prescribed in the minutes.

8180. 2342 Durham Road. Map 163, Lot 33. RU-1 District. Owner/Applicant: William G. Butterly, III. Request to vary Sec. 5.5f) and 12.6 of the Madison Zoning Regulations to allow a 32.5ft. front yard setback where 40 ft. is required to permit construction single story addition to a nonconforming dwelling as indicated on the Site Development Plan with the application.

Owner and Applicant William G. Butterly, III reported that the saltbox house was built in 1749, before the setbacks were established; he has been trying to restore it to its original historical integrity, but it is currently a two-bedroom house. Plans are to expand the house to three or four bedrooms. This house was built on the corner, and it has two front yards; since it is located closer to the road, it is within the setback requirements, according to Mr. Butterly. The only place to add on to the structure would be at the back of the house.

Chairman Cozean stated that the property has two front yards, and any place the house is put, there will be a setback issue.

Local resident Wayne Mumsford, who lives near the property, thought the application was for property directly behind his house, but since he has discovered it is not, he has no problem with the application.

Chairman Cozean closed the public hearing and stated that the hardship is the location of the two front yards as well as the location of the septic system.

Chairman Cozean made the motion that the application be approved, with all work being done consistent with the application; it was seconded by Commissioner Squitiero and unanimously approved.

Vote to approve 2342 Durham Road passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

8181. 104 Middle Beach Road. Map 17, Lot 92. R-4 District. Owner: Karen Singh and Elgar Peerschke, Applicant: Karen Singh. Request to vary Sec. 3.6d) to allow an 8.2 ft. side yard where 12 ft. is required to permit the addition of the fireplace chimney to a nonconforming dwelling.

Attorney Thomas Cronan presented the application on behalf of owners Karen Singh and Elgar Peerschke. Mr. Cronan stated a side setback variance is being requested to allow an inside chimney to be moved to the outside of the building, so the property owners can obtain more livable space inside. The footprint and the floor area will not get any bigger, Mr. Cronan stated. By the simple device of moving the chimney outside, the property owners obtain enough living space to satisfy their needs, according to Mr. Cronan. Besides considering the location of the house as a reason to grant the variance, Mr. Cronan summarized *Vine vs. North Branford*, wherein the court ruled that a Zoning Board of Appeals could accept as a full substitute for a legal hardship the establishment of reducing or eliminating an existing nonconformity. A shed on the west side of the property, which contributes to the coverage, could be removed, thus satisfying the establishment of reducing or eliminating an existing nonconformity, according to Mr. Cronan.

Chairman Cozean stated that he is inclined to accept the application, since the applicants are willing to remove the shed, thus reducing the nonconformity; being discussed is 9.6 feet off the property line, and the applicants are 8.2 feet.

Mr. Cronan submitted **EXHIBIT 1**, a letter from Jonathan Kislak, 98 Middle Beach Road, which had no objection to the application.

Chairman Cozean made the motion to approve the application, with all building being done in accordance with the plans and the condition that a nonconforming shed on the west side be removed; this was seconded by Commissioner Moore and unanimously approved.

Vote to approve 104 Middle Beach Road passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

8182. 1347 Boston Post Road. Map 31, Lot 36. C District. Owner: 1347 Marketplace, LLC, Applicant: Rob Cohen. Request to vary Sec. 6.1.3e) of the Madison Zoning Regulations to permit a front yard variance of 10 ft. to allow placement of two storage units at the rear of the building.

Applicant Rob Cohen stated that this is a variance that was already granted, permitting a front yard variance of 10 feet to allow placement of two storage units at the rear of the building.

Chairman Cozean stated that he did not have a problem with this variance, since it has already been granted; the Zoning Board of Appeals granted it before, so it should grant it again.

Vice Chairman Stevens made the motion to approve the application because a real legal hardship was shown before; Commissioner Moore seconded the motion and it was unanimously approved.

Vote to approve 1347 Boston Post Road passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

8183. 2123 Durham Road. Map 159, Lot 5-1. RU-1 District. Owner/Applicant: Emma & Andrew Long. Request to vary Sec. 11.1 of the Madison Zoning Regulations to allow the placement of an accessory building in a front yard.

Attorney Thomas Cronan stated that the property is located adjacent to an abandoned dirt road on one side and Route 79 on another side, and a large pond that was built with wetlands approval takes up a major portion of the site. On a site plan, Mr. Cronan had placed a green line indicating the presence of wetlands areas; this became **EXHIBIT 1**. The green line indicated areas where the property owners could not build. In addition, the property has two front yards, one along the dirt road and the other along Route 79. Section 11.1 of the town zoning regulations prohibits accessory buildings in front yards. Accessory buildings are allowed to be closer to the property line, Mr. Cronan stated. In seeking approval for the variance, Mr. Cronan stated that the placement of the accessory building does not affect the Madison Plan of Conservation and Development, and the land features of the lot are such that there is not much space to put an accessory building.

Chairman Cozean stated that this application presents more of a classic hardship, in terms of the pond and the wetlands not allowing for many options.

Owner Emma Long stated that there is no other place to put their garage; the couple has a baby, and they need a place to put their cars.

Commissioner Piggott made the motion that the application be approved, with Chairman Cozean adding that it be approved on the grounds that the site has wetlands and two front yard setbacks, which create a hardship; this motion was seconded by Commissioner Squitiero and unanimously approved.

Vote to approve 2123 Durham Road passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

Approval of Minutes ~ November 4, 2015

Vice Chairman Stevens made the motion to approve the Nov. 4, 2015 minutes, with the amendment that Alternate Commissioner William H. Piggott be listed as an alternate present, because he was in attendance at the meeting; this was seconded by Commissioner Moore and unanimously approved.

Vote to approve the Nov. 4, 2015 minutes, as amended, passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

Adjournment

Chairman Cozean made the motion to adjourn at 8:10 p.m.; it was seconded by Vice Chairman Stevens and unanimously approved.

Vote to adjourn at 8:10 p.m. passed, 5-0-0.

IN FAVOR: Chairman Cozean, Vice Chairman Stevens, and Commissioners Kelty, Squitiero and Piggott.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy
Clerk