

SUBJECT TO APPROVAL

**MADISON PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
Nov. 17, 2016**

The regular meeting of the Madison Planning and Zoning Commission was conducted Thursday, Nov. 17, 2016, at 7 p.m., in Meeting Room A at Madison Town Campus.

MEMBERS PRESENT

Chairman Ronald Clark, Vice Chairman Francine Larson, Secretary Thomas Burland, John Mathers, and James Matteson.

MEMBERS ABSENT

Amanda Kaplan, Joel Miller, Brian Richardson, and Joseph Bunovsky, Jr.

ALTERNATES PRESENT Elliott Hitchcock

OTHERS PRESENT

Director of Planning and Economic Development David Anderson and Selectman Bruce Wilson; MCTV taped the meeting.

The regular meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Chairman Ronald Clark, who seated Alternate Commissioner Elliott Hitchcock for absent Commissioner Brian Richardson.

16-25CSP. 49 Neptune Avenue. Map 18, Lot 56. Owner/Applicant: Neptune by the Sound LLC. Coastal Site Plan Review to construct replacement stairs to the beach.

Architect John Cunningham, representing the Rotermund residence at 49 Neptune Ave., passed out photographs of the existing staircase and stated the property owner would like to replace the existing staircase with a stainless steel cable rail system, install a pool code gate at the bottom of the stairs, keep the landing as it currently exists on the site, but turn the staircase to the other side of the landing, for more privacy on the beach.

Director of Planning and Economic Development David Anderson stated that the Coastal Site Plan review is necessary because the staircase replacement takes place near coastal resources, and there is no provision for allowing the approval to be accomplished administratively; he did forward the application to the state Department of Energy and Environmental Protection (DEEP), and that agency had no immediate concerns.

Commissioner James Matteson made the motion to approve the Coastal Site Plan; it was seconded by Commissioner John Mathers and unanimously approved.

Vote to approve the Coastal Site Plan passed, 6-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Francine Larson, Secretary Thomas Burland, and Commissioners Matteson, Mathers, and Hitchcock.

OPPOSED: None.

ABSTAINED: None.

Discussion of Sec. 2.4 of the Madison Zoning Regulations regarding the requirement for an exclusive right-of-way.

Director of Planning and Economic Development David Anderson stated that Section 2.4 of the Madison Planning and Zoning Regulations has been in the document in its current format since the town adopted planning and zoning regulations in 1953. This section regulates that a lot cannot be built upon unless it has frontage on a public road or an exclusive right of way, and this section creates a conflict with other aspects of the planning and zoning regulations; if the definition of frontage, within the planning and zoning regulations, is examined, it states that there has to be a continuous property line frontage on a public or private road. In 1978, the definition of frontage was added to the planning and zoning regulations. In 2009, Section 19, frontage was modified to include a private roadway. These changes allowed a property to be subdivided and also to be built upon, if these conditions were met; Mr. Anderson passed out copies of examples of several subdivisions in town, which he stated are awkward in appearance, in seeking to comply with the regulations. Most of these subdivisions share a common driveway, and they have long flag shaped lots along a public road, he stated. It is poor use of land; it's an inefficient use of land, Mr. Anderson stated. Those layouts do not serve any purpose, and the regulation, as written, does not achieve any greater purpose, Mr. Anderson stated. One subdivision has a number of lots with 25-foot access ways over tidal wetlands, where no vehicular traffic ever travels, simply to meet the requirements of Section 2.4, according to Mr. Anderson. He asked the Planning and Zoning Commission whether it wants to add the words "and private road" to the definition of frontage, and he asked the commission to decide what is the purpose of having it be an exclusive right of way and whether the commissioners would consider making it a shared right of way. Section 2.4 could be changed to require 25 feet of frontage on a public and private road, and the 25 feet of right of way could be shared; if those conditions could be met, then a lot could be built upon, according to Mr. Anderson.

Several residents were listening to the discussion, and Chairman Clark invited them to speak, if they wished to share any comments. Tammey Rooney of 4 Grove Ave., stated that they had been told, before they bought their property, that a lot to the rear of them could not be built upon; however a building permit was issued to that property owner by the town zoning enforcement officer, and the Zoning Board of Appeals upheld the zoning enforcement officer's decision to allow the rear lot to be built upon. This matter, however, is now in the hands of the court, according to Ms. Rooney, and the court has to decide whether the building permit should have been issued; what she terms "paper frontage" was created to make the lot comply with the zoning regulations and to allow the lot to become buildable. The frontage is not accessible and the non-exclusive 25 feet of right of way has at least 12 feet in a brook, with the remaining 13 feet being her driveway, according to Ms. Rooney. The exclusivity restriction in Section 2.4 is the only thing protecting her home, she stated.

Mr. Anderson explained that the zoning enforcement officer signed off on the building permit, because the property owner had reconfigured his lot line and made a 25-foot property line along Liberty Street, so he now has frontage on a public road; therefore, the building permit had to be issued. That frontage has no access from Liberty Street, because of the wetlands, Mr. Anderson stated.

Vice Chairman Larson stated that it is a loophole, which allows frontage that cannot be used. She asked, "What is the point of it?"

In summarizing the discussion, Mr. Anderson stated that the commission has to decide whether to add to Section 2.4 frontage on a public or private road, and it also has to make clear the exclusive discussion and the access-way discussion; he proposed continuing the conversation at one of the commission's next meetings. In terms of exclusive use of rights of way, Mr. Anderson explained that determining how rights of way are used is not a municipal issue; municipalities do not enforce rights of way use.

Approval of Minutes:

Regular Meeting – October 20, 2016

Planning Meeting – November 3, 2016

Chairman Clark made the motion to approve the Oct. 20, 2016 minutes as submitted; it was seconded by Commissioner Matteson and unanimously approved.

Vote to approve the Oct. 20, 2016 minutes passed, 6-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, Secretary Burland, and Commissioners Hitchcock, Mathers, and Matteson.

OPPOSED: None.

ABSTAINED: None.

Vice Chairman Larson made the motion to approve the Nov. 3, 2016 minutes as submitted; it was seconded by Commissioner Matteson and unanimously approved.

Vote to approve the Nov. 3, 2016 minutes passed, 6-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, Secretary Burland, and Commissioners Hitchcock, Mathers, and Matteson.

OPPOSED: None.

ABSTAINED: None.

Remarks ~ ACCA Liaison Report: Mr. Anderson summarized the events of the ACCA meeting.

Commission Chair: Chairman Clark reminded the commissioners to look at the solar panels near the baseball field, since the application is expected to go before the commission in December

Town Planner: Mr. Anderson stated that the 21 on the building on Boston Post Road did not go through any approval process, nor did the Planning and Zoning Commission approve it. The property owner will be submitting a sign application, and Mr. Anderson asked if the commissioners would like to be a part of the review team, and they said they would. Mr. Anderson stated that a 45-slip marina, a building, parking, and fill will be a part of the 4 Boston Post Road public hearing application on Dec. 15, 2016, and he asked if the commission was interested in viewing the site. Commissioners said they would like to view the property; therefore Mr. Anderson will make arrangements with the property owner for a site walk.

PUBLIC HEARING ITEMS (Scheduled for 7:30 p.m.):

16-23+CSP. 4 Boston Post Road. Map 44, Lot 57. C District. Owner: Yarde Realty Company; Applicant: Michael Barnes. Special Exception Permit for a 45 slip small boat marina which

includes an access drive, aisle ways, parking, boat davit, commercial building, bulkhead and retaining wall. Coastal Site Plan Required. **Commencement of Hearing Postponed to December 15, 2016.**

16-24. 4 Boston Post Road. Map 44, Lot 57. C District. Owner: Yarde Realty Company; Applicant: Michael Barnes. Application for Deposit of Material of 9200 cubic yards. **Commencement of Hearing Postponed to December 15, 2016.**

Adjournment

Commissioner Mathers made the motion to adjourn at 8:30 p.m.; it was seconded by Commission Secretary Burland and unanimously approved.

Vote to adjourn passed, 6-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, Secretary Burland, and Commissioners Hitchcock, Mathers, and Matteson.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy, clerk