

## Subject to Approval

### MADISON PLANNING AND ZONING COMMISSION MEETING MINUTES Jan. 6, 2022

The Regular Meeting of the Madison Planning and Zoning Commission was conducted Thursday, January 6, 2022, at 7 p.m., remotely, using Zoom Videoconferencing. The public was invited to participate remotely by joining the meeting through a Zoom webinar link password, telephone call-in number, and a webinar identification number. Log-in and call-in details were posted to the Town of Madison website (<https://www.madisonct.org/>), prior to the meeting.

#### **MEMBERS PRESENT**

Elliott Hitchcock, Giselle Mcdowall, Seonaid Hay, John K. Mathers, Ron Bodinson, Carol Snow and Peter Roos.

#### **MEMBERS ABSENT**

None

#### **ALTERNATES PRESENT**

None.

#### **OTHERS PRESENT**

Town Planner Erin Mannix. The meeting was recorded via Zoom Videoconferencing software for You Tube viewing.

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The Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Secretary Elliot Hitchcock who was the acting chairman for the night. Before the meeting began, acting Chairman Hitchcock congratulated and welcomed Peter Roos, Ron Bodinson and Carol snow for their appointments from Alternates to Full seating members of the commission. He also thanked Ron Clark, James K. Matteson, Joel Miller, Joseph S. Bunovsky and Thomas Burland for their many years of dedicated service to the Town of Madison and this commission, stating that their insight and knowledge will be missed.

Acting Chairman Hitchcock stated that there was one public hearing scheduled for the night. And further discussed the procedures as followed: *During the public hearing, the applicant will be invited to join as a panelist to present the application, explaining to the Commission and others present what is being requested. The applicant or staff will share all application materials on the screen as needed. Comments of town agencies will be read for each application if there are any. There will be clarifying questions from the Commissioners. Then there will be an opportunity for clarifying questions from attendees. Please raise your hand through the zoom platform and wait to be called on and unmuted. Next, those who wish to support the application may come forward and then, those who oppose the application may come forward. As this public*

*hearing must be recorded, it is necessary for speakers to identify themselves each time they speak by stating their name and address.*

*The applicant will then have an opportunity to address any questions or concerns raised by the public or Commissioners. Once the public hearing is closed, the applicant is free to leave or remain for the balance of the regular meeting, during which the Commission will try to reach a decision on each application. Each applicant will be notified in writing as to the decision of this Commission and has a right to appeal to Superior Court if desired. Decisions of this meeting are available the day after the meeting by calling the Land Use Department at 203-245-5632 after 9am. All actions taken tonight by the Commission will be by roll call. All Commissioners and staff will identify themselves for the record before speaking.*

*Seated this evening are members: Giselle McDowall, John Mathers, Seonaid Hay, Peter Roos, Ron Bodinson, Carol Snow, and myself Elliott Hitchcock.*

*Staff present this evening is Erin Mannix, Town Planner.*

*This meeting is live streamed on YouTube and will be made available on the Town website for viewing.*

The Town Planner then read the legal notice.

Legal notice is as followed: notice is hereby given that the Madison Planning and Zoning Commission will hold a public hearing on Thursday January 6, 2022 at 7pm, the meeting will be conducted remotely as a zoom online webinar, the public is invited to attend by joining the webinar through either the webinar link or call in information below with webinar ID 91581966735 PASSWORD 452138. Further details about how to participate in the webinar is located on the Town of Madison website, information on the application is available in the land use office, Madison Town Campus or by calling the town planner 245-5631. Applications to be heard is Application # 21-24. 73 Wall Street. **Map 38, Lot 69, D-District. Owners: Jean Cowles & Louis Gimble; Applicants: Crystal Cowles and Jean Cowles. Special Exception Permit for change of use of a commercial building to a two-family dwelling per Section 6.15.9.**

Acting Chairman Hitchcock asked if there is anyone from the applicant to present.

In opening the public hearing, Erin Mannix, Town Planner stated that she does not believe anyone is here on behalf of the applicant to present this application. Today is the 65 day, the last regularly scheduled meeting for the commission to open a public hearing for this special exception permit and its her recommendation to open this hearing even though the applicant is not here to present.

The Town Planner asked If the commission would entertain a motion to open the public hearing and then she will provide a staff report with background information.

**Peter Roos made a motion to open the public hearing which was seconded by John Mathers.**

Mrs. Mannix shared the special exception permit for 73 Wall Street, and stated that Crystal Cowles is the applicant, the project is a request to covert commercial space into a residential space. Mrs. Mannix further stated that the floor plans showed a second-floor layout which is believed to be the front building on the subject parcel on Wall Street. The first floor are residential apartment layouts- two-bedroom unit on either floor of this front building. The

commission will likely recognize this property as the former Paul Lirot jewelry store on the first floor. The Town Planner additionally stated that the applicant provided a photo of the subject building, and has provided the field cards for the properties- in the back there is a detached garage. And an additionally third building in the rear of the parcel. The town planner also showed a GIS map of the properties area.

After showing the application documents to the Commission. Mrs. Mannix provided a memo to the Commission, and stated that the applicant is not present and staff has made multiple attempts to coordinate with the applicant regarding this application through the past 65 days since the application has been submitted to the land use department.

The Town Planner read the memo into record:

*January 6, 2022 memo to the Planning & Zoning Commission From: Erin Mannix, CZEO, Town Planner regarding application 21-24. 73 Wall Street. Map 38, Lot 69, D-District. Owners: Jean Cowles & Louis Gimble; Applicants: Crystal Cowles and Jean Cowles. Special Exception Permit for change of use of a commercial building to a two-family dwelling per Section 6.15.9.*

*This property is located within the Downtown District Special Exception area. This commercial property is improved with three buildings. Historic records for the property indicate the last permitted use for the rear building was retail and office and the last permitted use for the front building was also first floor retail with 2nd floor office. You may recall the retail use in the front, roadside building as the former Paul Lirot jewelry store. The 3rd structure is a detached garage. Based upon the applicant's request in this application, the front building is a two-family dwelling. There are no records of permits for this conversion and the request is after-the-fact. Section 6.15.9(c) of the Zoning Regulations indicates that in addition to the criteria outlined in Section 4.4 regarding consideration in granting or denying a Special Exception Permit, the Commission shall also have the authority to consider the following in granting or denying a Special Exception Permit for Dwelling Units, other than single family detached dwelling units:*

- 1) The extent to which the proposal will help develop an optimal mix of residential units within the zoning district while maintaining Madison Center as primarily a commercial area.*
- 2) The extent to which the proposal preserves active street level commercial uses, primarily along Boston Post Road, between Wall Street and Rt 79, and along Wall Street.*

*At the last Commission meeting, a request was made to refer this application to the Economic Development Commission for comments regarding the conversion of a first-floor retail space to a residential use. The EDC is scheduled to discuss this matter at their January meeting.*

*In addition to the above-criteria, it is important for the Commission to note that the applicant has not complied with Section 4.2.5 of the Zoning Regulations for notice. No sign has been posted on the property nor has a certificate of mailing been provided to ensure adequate notice to property owners within 150ft of the subject parcel.*

*The applicant has not provided a site plan per Section 4.2.2 of the Zoning Regulations.*

*Additionally, the applicant submitted a 19-B100a application to the Health Department in November 2021. This application was rejected by the Health Director on November 4 2021 indicating a change in use cannot be approved at this time. Septic system will need to be upgraded to a 4-bedroom system. The applicant has not provided updated septic design at this time.*

*This evening is the last regularly scheduled meeting that the Commission can open the public hearing. The Commission has not been granted any extensions by the applicant. Staff recommends proceeding with the public hearing process to allow the applicant an opportunity to present the proposal. Staff comments can be received along with any comments from the public.*

The Town Planner stated that staff has reached out to the applicant on multiple occasions indicating that there is a statutory deadline to open the public hearing, however, the application is deficient in several respects. The applicant has responded to staff indicating that they will likely need more time but has not put much thought into this application at this time. Having not received any additional information from the applicant and seeing that this work has already been completed without permits, it is the Town Planner recommendation as the applicant is not here to provide the commission with an extension to allow for any potential comments from the commission and public to move forward and close the public hearing. Mrs. Mannix has also provided a draft motion for denial of the application.

Acting Chairman Hitchcock, stated that the Commission can skip over the portion for the ability to ask questions because the applicant is not present. The hearing was then moved to the public, Acting Chairman Hitchcock asked if there is anyone present to speak in support of the application. No hands raised. Acting Chairman Hitchcock then asked if there is anyone in public to speak against the application. No hands raised.

Next step was to make a motion to close the public hearing.

**Commissioner Peter Roos made a motion to close the public hearing, and seconded by Commissioner Seonaid Hay.**

**Vote to close public hearing, application # 21-24. 73 Wall Street. Map 38, Lot 69, D-District.**

IN FAVOR: All

OPPOSED: None.

ABSTAINED: None

Public Hearing closed.

Commissioner Ron Bodinson asked, since we are going to turn this down on merits, is there any difference on turning down the merits versus throwing it out because it is incomplete? He further stated that there should be some rule on turning down based on merits that the applicant cannot reapply for a certain amount of time, but he wasn't sure.

The town planner replied that by sharing the motion that is drafted by the specific reasons that the application was denied; It does not prevent the applicant from addressing those issues and providing a complete application to the commission and exploring a feasibility of septic suitability as well for this project which should be covered in the reasons.

Commissioner Roos then read the draft motion as followed:

***VOTED that the Madison Planning & Zoning Commission deny Application #21-24. 73 Wall Street. Map 38, Lot 69, D-District. Owners: Jean Cowles & Louis Gimble; Applicants: Crystal Cowles and Jean Cowles. Special Exception Permit for change of use of a commercial building to a two-family dwelling per Section 6.15.9 for the following reasons:***

- 1. The application is incomplete per Section 4.2.2 of the Zoning Regulations as a site plan has not been provided.*

2. *The applicant has not complied with Section 29.2 (p) of the Zoning Regulations demonstrating the adequacy of the on-site soils to handle the expected sewage effluent.*
3. *The applicant has not complied with Section 4.2.5 of the Zoning Regulations for notice of a special exception application. No sign was posted on the property in accordance with this section nor was evidence of notification mailings provided to the Land Use Office prior to the date of the hearing.*

*The Commission further finds that should the applicant seek special exception approval for first floor residential use again in the future, a referral to the Economic Development Commission for comments regarding street level commercial use on the property shall be required. Additionally, as the conversion to residential use has been completed without a certificate of zoning compliance, a zoning violation exists on the property. The effective date of this denial is January 21, 2022.*

**Motion was made by Commissioner Roos and seconded by Commissioner Snow.**

Acting Chair Hitchcock, asked any discussions.

Commissioner John Mathers asked that seeing that the property is in violations of zoning, what are the repercussions of any tenants that are residing there?

The Town Planner stated that at this point, the zoning enforcement officer would reach out to the property owner and issue a notice of violation which the goal is to have the applicant submit the appropriate information to see if any of the residential use can be legalized on the property. Mrs. Mannix further stated that it is a little preliminary to know what the status and the outcome for the tenants would be at this time.

Commissioner Hay asked if both floors are in noncompliance or just the first floor?

Mrs. Mannix replied that it's both floors.

Acting Chairman Hitchcock asked any other questions or discussions. None.

**Vote to approve deny application #21-24. 73 Wall Street. Map 38, Lot 69, D-District.**

IN FAVOR: All

OPPOSED: None.

ABSTAINED: None.

Application Denied.

**NEW APPLICATIONS**

**21-33. 1324 Boston Post Road.** Map 31, Lot 43, C-District. Owner: 1324, LLC; Applicant: Fuffy Brothers, LLC. Application for a Site Plan Review to operate a food truck on restaurant property during off season. (Receipt and Action)

Presenter -David Donahue from Donahue's Clam Castle 1324 Boston Post Road, purchased a food truck and the application is for permission that during the off season of the Clam Castle that runs from April to Mid-October and after Mid October over to April to utilize the truck to sell a limited menu of chowder, hotdogs and grill sandwiches. Presently, Electric is going to the truck

and he applied for a special application for a fundraiser last month to see how it will run. The health inspector was there and the fundraiser went well. Dave stated that he will like to park the truck by the present gazebo and have a sign pointing to the truck and have the truck on their property. During the fundraiser, Dave ran into a problem, he noticed that half the truck was on state property and was ordered to bring the truck back more on the property. The fundraiser raised about \$750 and was very viable.

Commissioner Hay asked what hours would the truck operate?

Dave responded by saying during daylight hours, 12 noon to about 5pm in the afternoon. And operate about 3 or 4 days a week.

Commissioner Snow asked if the Clam Castle is not able to stay open year-round due to no heat or water?

Dave responded yes, there is a very small heat system and there is no heat system in the kitchen, therefore water and gas is shut off. It is seasonal.

Commissioner Roos asked where exactly would the truck be parked?

Dave stated it would be parked right next to the picnic area, as per the application; it would be back from the street and the truck is currently parked there. The town planner then showed a picture of the lot and the truck (Southeast corner of the lot).

Commissioner Snow ask if any additional signage is needed to draw attention to truck?

Dave responded that he currently has a permit for a sign that simply says open for clam castle; yes, a sign is needed. Dave further asked if the truck can be moved up a couple of parking spaces on their property so they could also run electric to the truck and could be seen a bit clearer on the post road.

Commissioner Bodinson asked what was meant by run electricity, if it was cord on the wet ground?

Dave responded that he would consult with an electrician, and bury a line from the Clam Castle across the parking lot and make a plug in on the right side where the parking signs use to be. That was a thought and wondered on the possibility of doing that.

Commissioner Bodinson asked Mrs. Mannix why was the truck in the back and what are the regulations that puts it in the back?

Mrs. Mannix responded that initially Dave was hoping to park in front of the building, which is within the state right of way. So, it was a sort of compromise as he was close to an electric source to be able plug in – that is where the back corner came in. The only concern that he may have is depending on how he is looking to bury an electric trench, is septic that is in the area.

Mrs. Mannix suggested that before any other permanent improvements are made to the site, that the commission should explore whether or not they are looking to approve this type of use on temporary basis or trial. It was discussed with Dave that its staff recommendation that if the commission is agreeable to allow a food truck on property to allow this for a short term to determine the viability of the food truck business or then perhaps explore some of the other options that are available through the mobile food truck ordinance in Town, such as parking at Academy or school street on a more regular basis during off season as oppose to the parking lot.

Commissioner Hay asked since the truck is being plugged in, the engine is not running?

Dave responded that is correct.

Mrs. Mannix asked Dave to clarify that he will not be blocking the drive aisle as the truck would fit within a parking space, so you will still have the circulation of traffic through the site.

Dave responded that's correct, as per the plan, it allows for traffic flow.

Acting Chairman Hitchcock asked if the pavilion would be utilized for seating or is it basically grab and go?

Dave responded that it is basically grab and go in the wintertime because of temperatures. Tables are there and available and he would not be opposed to people using the area. He does not see it being crowded.

Commissioner Mathers asked if Dave has plans on going mobile with the truck or to take the truck to other locations since the truck will only operate 3 to 4 days a week.

Dave responded that he would like to take this one step at a time, and for this particular season, his plan is to keep the truck there on site.

Commissioner Mathers then asked Mrs. Mannix, what is the Downside to granting a permanent approval as oppose to temporary? Commissioner Mathers states that he understands that Mrs. Mannix wanted to consider temporary to check the viability of the business but asked if she has concerns about a food truck being there for more than a season?

Mrs. Mannix replied that the question could be raised as there is an existing restaurant on the property and if they are looking to extend the season of the restaurant to year-round, have they explored other options as perhaps using the existing building as oppose to shutting the building down for the off season and working out of the food truck. And are there other options to convert the existing structure to a year-round restaurant?

Commissioner Mathers further asked that as the owner of the truck, also the owner of the property and owner of the business shouldn't that be his decision as to whether to invest in the structure or operate the truck.

Mrs. Mannix stated that ultimately, it's the commission's decision to determine whether they would like to see this mobile food truck use on a private property. The mobile food ordinance does allow for a variety of options. The third of which is on private property with the approval of the Planning and Zoning Commission. There are some limitations. The Town has established the area within Academy and School Street for approved longer term use for several hours of food sales and there is some limitation on sales within the right of way, limiting the hour for a particular location and not just someone parking on the side of the road for a longer term. Ultimately the decision does lie with the Commission.

Commissioner Snow raised another issue, and stated that it is great to encourage the use of existing food truck locations. However, there is a possibility that Academy School might be under construction in the coming years. She does like the idea of giving temporary permission and seeing what the bigger picture looks like.

Mrs. Mannix stated there would likely be a conversation between the Police Department and the Board of Selectman as far as any other alternative locations should construction occur.

Commissioner Bodinson then asked does regulation allow the food truck to stay open later than the 5pm indicated by Dave, for example 'til midnight.

Mrs. Mannix stated that the commission could limit hours of operation and if Dave is providing hours of operation, that they could be incorporated as a condition in the motion.

Acting Chairman Hitchcock asked what is the normal operating months for the Clam Castle?

Dave responded, Mid-April to Mid-October.

Acting Chairman Hitchcock asked if Food truck will only be used when the restaurant is actually closed?

Dave responded that's correct and that he will be going to the Health Department, to get a permit for the truck and if the truck is fully permitted and if there is a private event to cater then he will consider off premises.

Commissioner Bodinson asked if Dave would put out balloons or just have a sign.

Dave responded just the permitted sign.

Acting Chairman Hitchcock asked if there were any other questions.

**Commissioner Roos read the draft motion as followed:**

*VOTED that the Madison Planning & Zoning Commission approve Application #21-33 1324 Boston Post Road, Map 31, Lot 43, C-District, Owner: 1324 LLC; Applicant: Fuffy Brothers LLC, application for site plan review to operate a food truck on restaurant property during off season with the following condition:*

*1. That the food truck be permitted to park and operate on the property as shown on the submitted application documents and site plan until May 30, 2022.*

*2. Future parking or operation of the food truck on the subject premises after May 30, 2022 requires Planning & Zoning Commission approval.*

*The effective date of this approval is January 21, 2022.*

Acting Chairman Hitchcock states that the he would like to make a suggestion as the approval states May 30 but the truck operates Mid-April.

**Commissioner Roos made a motion to modify the motion as followed:**

*Item 1: That the food truck be permitted to park and operate on the property as shown on the submitted application documents and site plan until April 30, 2022.*

*2. Future parking or operation of the food truck on the subject premises after April 30, 2022 requires Planning & Zoning Commission approval.*

*The effective date of this approval is January 21, 2022.*

Commissioner Bodinson also stated that he would like to consider a time limit in the motion.

**Commissioner Roos made a motion to modify item # 1 to the following.**

*That the food truck be permitted to park and operate on the property as shown on the submitted application documents and site plan until April 30, 2022 from the hours daily from 11am – 6pm.*

**Motion was seconded by John Mathers.**

Any Discussions: None

IN FAVOR: All

OPPOSED: None

Application approved

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## **DISCUSSION**

1. Election of Officers
2. Appointment to Marijuana Committee

### **Election of Officers**

Commissioner Roos, stated the committee is in state of flux, and now down two permanent members and three alternates and the goal is to get those position filled as soon as possible and to elect a chair, vice chair and a secretary with terms to expire next January of 2023. He further stated that the charter says not to exceed two years, this gives the commission the chance to work together to gain another year of experience. Keeping the term of the officers one year versus two is in the committee's advantage.

Commissioner Bodinson asked for clarifications.

Commissioner Roos stated that he is only suggesting to elect three officers tonight and the term for one year.

Commissioner Bodinson mentioned that Erin indicated that the quorum is 7 and the majority is 4 and for some reason she stated that it takes 5 to elect an officer. And further questioned it as it goes against the Robert's Rule and asked Erin to locate it in the charter for clarifications.

Erin will research and answer question at a later time.

In continuing the election, Commissioner Bodinson nominated Carol Snow for Chairman.

IN FAVOR: All

OPPOSED: None

ABSTAINED: None

Chairman Snow moved on to the election of Vice Chair.

Elliot Hitchcock nominated Peter Roos for Vice Chair

IN FAVOR: All

OPPOSED: None

ABSTAINED: None

Commissioner Bodinson nominated Elliot Hitchcock for Secretary

IN FAVOR: All

OPPOSED: None

ABSTAINED: None

### **Appointment to Marijuana Committee**

Commissioner Giselle McDowall volunteered to serve on the Marijuana Committee.

IN FAVOR: All

**APPROVAL OF MINUTES:** December 16, 2021 and December 21, 2021

Regular Meeting ~ December 16, 2021

**Commissioner Hay made the motion to approve the Dec. 16, 2021 minutes as submitted; it was seconded by Commission Roos.**

Vote to approve the Dec. 16, 2021 minutes as submitted passed, 6-0-1.

IN FAVOR: Chairman Snow, Vice Chairman Roos, Secretary Hitchcock, and Commissioners McDowall, Hay and Bodinson.

OPPOSED: None.

ABSTAINED: John Mathers.

Special Meeting ~ December 21, 2021

**Commissioner McDowall made the motion to approve the Dec. 21, 2021 minutes as submitted; it was seconded by Vice Chairman Roos.**

Vote to approve the Dec. 21, 2021 minutes as submitted passed, 6-0-1.

IN FAVOR: Chairman Snow, Vice Chairman Roos, Secretary Hitchcock, and Commissioners McDowall, Hay and Bodinson.

OPPOSED: None.

ABSTAINED: John Mathers.

**REMARKS:** Commission Chair

Town Planner

**ADJOURNMENT**

**Chairman Snow made the motion to adjourn at 8:05p.m.; it was seconded by Commissioner McDowall**

Vote to adjourn at 8:05 p.m. passed 7-0-0.

IN FAVOR: Chairman Snow, Vice Chairman Roos, Secretary Hitchcock, and Commissioners McDowall, Hay, Mathers and Bodinson.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,  
Racquel Stubbs