

Subject to Approval

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
February 14, 2023**

The Regular Meeting of the Madison Zoning Board of Appeals was conducted Tuesday, February 14, 2023, at 7 p.m. by way of an online Zoom Webinar, with public participation available through a Zoom Webinar link and password, as well as through a telephone call in number, with a Zoom Webinar identification number, all publicly posted.

MEMBERS PRESENT

William Piggott, Jason Brown, Dennis Crowe and Richard Gilbert

ALTERNATES PRESENT

Dylan Stella and Steve Bischoff

OTHERS PRESENT

Town Planner, Erin Mannix

VC Piggott called the meeting to order at 7:06p.m. and read his introduction / public hearing procedure statement. Mrs. Mannix, town planner read the legal notice.

ELECTION OF OFFICERS (CHAIRMAN, VICE CHAIRMAN)

- **Commissioner Crowe made the motion to nominate Richard Gilbert as Chairman for ZBA. Seconded by Commissioner Brown and unanimously approved.**
- **Commissioner Crowe made the motion to nominate Jason Brown as Vice Chairman for ZBA. Seconded by Commissioner Piggott and unanimously approved.**

PUBLIC HEARING(S):

23-01. 89 Cottage Rd aka 19 Lazy Ln. Map 31, Lot11, Zone – T; Coastal Site Plan; Owner: Nancy Novak, Applicant: Tommy Q Builders, Variance request per Section 12.6 to allow vertical expansion for increased roof height of a non-conforming structure from 11 ft. to 13 ft.

Commissioner Crowe made the motion to open Public Hearing. Seconded by VC Brown and unanimously approved.

Present for the hearing – Tommy Q. Tommy states the applicant is requesting to raise the ceiling of the house an additional 2 ft. It is an existing seasonal house and the applicant is looking to spend more time there. The ceiling height is 7ft 1 inches and the applicant’s children are over 6 ft tall. He further states the footprint of the house is not being changed. A site plan of the property was shown and reviewed.

VC Brown asked if the property was nonconforming. Mrs. Mannix states the entire development is nonconforming and it’s a TD Zone - transitional development.

Mrs. Mannix then asked Tommy to speak to the characteristics of the surrounding units. Tommy states the house to the left and the right are taller than the applicant’s home and if the house went up 2 ft it would not stand out but be in line with the other homes.

Commissioner Piggott states the cottages are part of an association and asked if building improvements are approved by the association. Tommy states this project has been approved – the minutes from the meeting was shown and it reads: “approved pending building permit”. Commissioner Brown states a legal hardship has to be shown for any application and asked Tommy to speak to the applicant’s hardship. Tommy states the kids are tall and the home is short so additional ceiling height is needed as the homeowners feel claustrophobic. He further states, this does not impact other homes and would allow comfort for the owner.

The existing floor and proposed plan showed that the existing screen area will be converted into living space. After discussions, Tommy states the screened area would remain as is – no changes proposed.

There were no comments from the public.

VC Brown made the motion to close the public hearing and move into deliberations. Seconded by Commissioner Crowe and unanimously approved.

During discussions, Commissioner Crowe states the Board needs to find a legal basis for this application and wondered what would be logical during the absence of legal advice. Commissioner Piggott states the owners are simply making their home equal in height as the other properties. He has also driven by the home and it is in fact smaller in comparison to the neighboring houses. According to Chairman Gilbert this is an existing nonconformity and it does not change the zoning or its use.

Commissioner Brown made the motion to reopen the public hearing, Seconded by Commissioner Crowe and unanimously approved.

Chairman Gilbert made the motion to approve the variance request per section 12.6 siting Zachs law in lieu of a hardship and that this meets the criteria as on plans with the exception that the screen area remains as a screened in porch. Seconded by Commissioner Piggott and unanimously approved.

After the motion, Mrs. Mannix advise the board that a public hearing cannot be reopened after it is closed and additional information has to be requested prior to the closing of a hearing.

After discussions of the coastal site plan, the following motion was made.

VC Brown finds that coastal site plan as submitted for this project is consistent with the goals and policies of the Coastal Management Act. Seconded by Chairman Gilbert and unanimously approved.

23-02. 9 Bayview Pl. Map 18, Lot 63, R-4 Zone. Coastal Site Plan; Owner: The Deatrice W. Mays Revocable Living Trust, Applicant: AJ Shea Construction, LLC, Variance request per section 11.2 to demolish existing 12ft x 20ft, 12ft 6in tall detached garage and construct new 12ft x 20ft detached garage with increased building height of 15ft in same footprint.

Present for application – Joe Shea, owner of AJ Shea Construction. Mr. Shea states the garage that's on the site is a single bay garage that was built many years ago. It is over 12 feet high, and they've explored the feasibility of making a 2-car garage on the site; however, there's actually nowhere that is allowable to put a two-car garage. There's a septic system in the backyard that protects their

ability to relocate the garage within the setback. So, they are considering to raise the garage and stay within the 15 feet maximum height so that the family could park 2 cars inside the garage. As for the hardship, the garage cannot be moved due to the septic system and not in the front, because there's setbacks on both the sides.

VC Brown states if the property is pulled 6 foot off the Northern property line and 6 foot off the Eastern property line, that would reduce the nonconformity and would give the board the legal grounds to grant a variance. Mr. Shea states he had not considered that option for the application but do not think the owner would object to this and believe this would not be an issue with the Sanitation Department.

Commissioner Crowe states he had one concern, he believes the application documents folder on the town website has the wrong application. Also, the letters to indicate certificates of mailing for the neighbors are not present. He further states there was at least one negative response. Mrs. Mannix states that could be a staff uploading error and not on the applicant. Mr. Shea states he can further demonstrate that the 13 neighbors were contacted.

The owner, D. Mays joined the meeting. VC Brown asked the owner, how amenable are they to moving the structure 15ft so that it's completely conforming. Ms. Mays states, it's not a very large backyard, and aesthetically it would not look very good in the middle.

Mr. Shea then asked the owner, if they are okay with moving the house 6 feet away from the property line in both directions as they could make that work with the existing driveway and keep away from the septic system. Ms. Mays agreed.

Commissioner Crowe then gave Ms. May an opportunity to address the negative comment on file. Ms. May states the owner objects to the roof material which would be metal, as he felt it was not a traditional type of material. She states that's incorrect, as metal roof has been used in the United States for many years. Mr. Shea also states metal roof has become a choice for high quality properties, because it's a lifetime roof and is very durable under high wind which makes it a preferred roofing material when you're near the water.

There were no comments from the public. Mrs. Mannix states 3 letters were received and are incorporated into the record.

VC Brown then asked Mr. Shea to review the coastal site plan application. Mr. Shea states the removal of the existing building would be by hand to make sure there's no conflict with the property line. A silt fence would be installed on the property line to prevent any kind of organic material from moving away from the location.

Mrs. Mannix then asked if the footprint is the same as far as impervious surface coverage as existing and proposed. Mr. Shea states yes.

VC Brown made the motion to close the Public Hearing and move into deliberations; seconded by Commissioner Crowe and unanimously approved.

After discussions, the following motion was made:

VC Brown made the motion to close the deliberations and move back into session; seconded by commissioner Crowe and unanimously approved.

VC Brown made the motion to approve the variance application to section 11.2 with the condition that the new structure be located 6 feet from both the side and rear property lines on the basis that it reduces the overall nonconformities of the garage and that the garage must be built according to the plan submitted accepting the conditions of the approval. Additionally, the Board finds that the Coastal Site Plan application is consistent with the goals and policies of the Coastal Management Act with the condition that the building plan submitted to the town includes erosion and sedimentation control measures as discussed in the meeting. Seconded by Commissioner Crowe and unanimously approved.

APPROVAL OF MINUTES: December 13, 2022

Commissioner Crowe made the motion to approve the December 13, 2022 meeting minutes. Seconded by Commissioner Brown and unanimously approved.

Mrs. Mannix reviewed the continuing education requirements for the Board. She states upcoming is the Bar Association training on March 11th, an all-day training event, which gives the Board an opportunity to satisfy their training.

Staff would also try to schedule a special meeting with the land use attorney and the Board to review case laws and any legal questions the commissioners may have.

The Board also decided to remain remote until the town has an opportunity to address some technical challenges with the hybrid option.

ADJOURNMENT:

Commissioner Piggott made the motion to adjourn at 9:25pm; seconded by Commissioner Crowe and unanimously approved.

Respectfully submitted,
Racquel Stubbs