

Subject to Approval

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

The Regular Meeting of the Madison Zoning Board of Appeals was conducted Tuesday, March 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 Steve Bischoff

ALTERNATES PRESENT

Dylan Stella

MEMBERS ABSENT

Richard Gilbert

OTHERS PRESENT

Town Planner, Erin Mannix

CALL TO ORDER

VC Brown called the meeting to order at 7:03p.m and read his introduction / public hearing procedure statement. Steve Bischoff and Dylan Stella were seated as regular members. Mrs. Mannix, town planner read the legal notice.

PUBLIC HEARING(S):

23-03. 77 Middle Beach Rd. Map 16, Lot 91, R-4 Zone; Coastal Site Plan; Owner: William and Kathy Maher, Applicant: Alexa Ashton, Point One Architects, Variance request per Section 3.6c to allow 5.6' rear yard setback where 20' is required; and 3.6d to allow 4.5' side yard setback on the east where 12' is required; and 3.6d to allow a 5.7' side yard setback where 12' is required.

Present for hearing: Attorney Chris McKeon; project architect, Alexa Ashton; and owners, William and Kathy Maher. Mr. McKeon states the lot is very unique and small and its only use is a garage structure. The current garage is non-compliant on all of the yard setbacks, and is also non-compliant in terms of lot coverage. The owners worked with Alexa Ashton to develop a redesign structure that satisfies some of zoning, some utility for the building and removal of encroachment onto the property to the north. The owners are going to demolish the structure and rebuild it to FEMA compliance and the redesigned garage will allow for some storage on the second floor.

He further states all 3 variances represent reductions of non-conformities that currently exists with the existing garage; and such case as Mayer vs. Wittman has been sufficient to justify zoning boards of appeals to exercise their discretion to grant variances without the traditional showing of a legal hardship. He states the eliminations are making the structure better, FEMA compliant and the site itself satisfies the traditional hardship requirement.

The plan of the site was shown and reviewed by Ms. Ashton detailing both the existing and proposed building footprint.

VC Brown asked Ms. Ashton to explain what a Pier is? Ms. Ashton states a square concrete form or concrete column; and at this time the size is unknown but the structural engineer will eventually size it. Commissioner Piggott asked if they had considered moving the garage further to the south and making the setback more in the north. Mr. McKeon states there needs to be space for a car to be parked outside the garage rather than just in it, and also, Middle Beach Rd has parking traffic issues. And because of the traditional line of structures that exist on Middle Beach, it's a much more considerate use given the properties to both the East and West, and at the same time bringing it far enough away from the rear lot line to get rid of the encroachment. This also reduces the overall nonconformity in the rear.

VC Brown then asked the applicant to review the coastal site plan application. Mr. McKeon states the Coastal Site Plan application is based on replacing the structure and in so making the structure FEMA compliant. This also provides safety for surrounding properties, reduces the overall lot coverage and the new structure will be more conducive to protecting the coastal resources and the Long Island Sound itself.

VC Brown states he does not see soil erosion and sedimentation controls as part of this application. Ms. Ashton states it's not the appropriate time right now to address the sediment controls as a civil engineer, or surveyor would determine where silt fences would go.

VC Brown opened the hearing to the public for questions / comments.

Harrison DeStefano – owner of 75 & 78 Middle Beach Rd – states he is in support of the application.

There were no other comments from the public.

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

During deliberations, all commissioners were in support of this application as it reduces nonconformities, made the property safer, eliminated lot coverage and would be FEMA compliant.

VC Brown made the motion to close the deliberation. Seconded by Commissioner Crowe and unanimously approved.

VC Brown made the motion to approve application 23-03. 77 Middle Beach Rd. Map 16, Lot 91, R-4 Zone; Coastal Site Plan; Owner: William and Kathy Maher, Applicant: Alexa Ashton, Point One Architects, Variance request per Section 3.6c to allow 5.6' rear yard setback where 20' is required; and 3.6d to allow 4.5' side yard setback on the east where 12' is required; and 3.6d to allow a 5.7' side yard setback where 12' is required based on a reduction in non-conformities and a hardship of the property. Additionally, the Board finds that the Coastal Site Plan submitted for this project consistent with the goals and policies of the Coastal Management Act with the condition that the final erosion and sedimentation controls are approved by the ZEO. Seconded by Commissioner Piggott and unanimously approved.

23-04. 63EE Dudley Lane. Map 31, Lot 46, R-2 & C Zones. Coastal Site Plan; Owner: Oneshore LLC, Applicant: Peter Foote, Variance request per section 2.1 rebuild existing structure and enlarge by 35sf; and section 3.6d rebuild existing non-conforming structure in side yard increasing from 1.25' to 5.6' reducing existing non-conformity; and 12.1 change existing non-conforming side yard setback to reduce existing non-conforming side setback.

Present for hearing John Matthews, architect and Dave Newton, property owner. Mr. Matthews states the variances were requested because there are no lot lines other than the 2.6-acre size, which is a unique zoning situation; and according to tax records, the cottages were all built in 1948. The existing and current proposed site plan were then shown and reviewed for the Board. The cottages have a street frontage setback and most of them are close to the lot side yards and violates the 20" setback. The cottages have cesspools and they are proposing to put in a 1,000-gallon septic tank and a proper leaching field. Mr. Matthews further states the structures are non-conforming, therefore a variance has to be obtained to do anything on the parcel. He states the hardship is in fact the building as the current structure is not habitable – the rebuild structure will have the proper water, proper septic, and meet the building code requirements.

Commissioner Stella states the issue is not the lot coverage itself; it's in fact that the building is nonconforming and has being expanded. Mr. Matthews states the building is non-conforming and they are reducing the nonconformity and the coverage. Mrs. Mannix further add that there's no request for a coverage variance.

VC Brown asked if there's a separate system in lieu of a cesspool – would the system be solely for this unit or would it be shared? Mr. Matthews states it's just for this unit, and when there's a new structure the health code requires a septic system, not a cesspool.

VC Brown then asked the applicant to review the coastal site plan application. Mr. Matthews states they are in a X Zone and above the risk elevation. Mrs. Mannix then asked Mr. Matthews to speak to any potential impacts to coastal resources for the project, or how they may improve those conditions? Mr. Matthews states roof water would be caught by gutters and leaders as currently done and ponding is not an issue at the cottage site. He states the necessary silt fences around the excavation will be in place until the footings are done, and then it would be backfilled, and then the sediment erosion control devices would go away.

Commissioner Crowe questioned why stormwater treatment practices was not checked off as part of the application. Mrs. Mannix states stormwater management regulations exempts single family dwelling. Also, the applicant states they have incorporated stormwater infiltrations as much as they can, and this is an improvement for the site.

There were no comments or questions from the public.

Mr. Newton states in regards to coastal management, the property is totally flat and have drains along the driveway. They also put in subsurface drainage absorption areas to get a lot of the water into the ground quickly.

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

During Deliberations, Commissioner Crowe states this is a good case of reducing a nonconformity and bringing in an improvement to a septic system. All commissioners agreed this application

reduces the nonconformity, and it introduces a new septic system and a building that is code compliant and further improves the area. It was also noted that this is a unique hardship, because all of the cabins in the area are in violation of setbacks and the present house is almost not inhabitable.

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

VC Brown made the motion to approve application 23-04. 63EE Dudley Lane. Map 31, Lot 46, R-2 & C Zones. Coastal Site Plan; Owner: Oneshore LLC, Applicant: Peter Foote, Variance request per section 2.1 rebuild existing structure and enlarge by 35sf; and section 3.6d rebuild existing non-conforming structure in side yard increasing from 1.25' to 5.6' reducing existing non-conformity; and 12.1 change existing non-conforming side yard setback to reduce existing non-conforming side setback on the basis of a reduction of non-conformities. Additionally, the zoning Board of Appeals finds that the Coastal Site Plan Review is consistent with the Coastal Management Act presented in the application. Seconded by Commissioner Crowe and unanimously approved.

23-05. 99 Durham Rd. Map 48, Lot 59, R-1 Zone; Owner: Essex Savings Bank; Applicant: Town of Madison; Variance request per Section 4.1.17.3.13 to reduce existing lot are of 38,500sf to 37,765sf where minimum lot area of 40,000sf is required.

Present for application - town engineer and deputy Director of Public Works, Robert Russo. He states he is acting on behalf of the property owner Essex Savings Bank. This application is related to a town project - the Woodland road, Bradley Road and Durham Road, route 79 sidewalk construction project, a grant received in 2020; in addition, the community Connectivity Grant Program, which was also recently supplemented by a transit-oriented development grant, received last year in 2022. They are looking to enhance the pedestrian accessibility and connectivity throughout the downtown area and the neighboring areas as well as the businesses in that area, which allows for safe access. Mr. Russo further states there is no variance, or any ZBA related activity required for this property. However, upon investigation of 99 Durham Road, the property is currently nonconforming. A map of the area was shown and reviewed for the board. In addition, Mr. Russo states they will make a slightly nonconforming lot slightly more conforming for the sake of improving pedestrian accountability throughout the area. As for hardship, he states this is a town-initiated project and this targeted area needs pedestrian accessibility and by not granting this application, Essex savings bank will be asked by the Town to provide a perpetual easement for that sliver of land.

Mr. Russo is the Town liaison for the bicycle and pedestrian advisory committee, and the committee has been charged with creating a master plan throughout town that identifies areas of pedestrian and bicyclist needs and this area is included in the master plan and has also been identified by the Town engineering and Public Works Department as an area in need of pedestrian improvements.

Commissioner Crowe states for approval, the owner has to show hardship or a reduction of non-conformity and he's not sure what the grounds would be in this case. Mrs. Mannix states the board has the discretion to look at the overall greater good of the public improvements, as this is a town-initiated project. The installation of the sidewalks is not only consistent with preliminary work, that the bicycle pedestrian committee has done but it is also consistent with the plan of conservation and development, including accessibility within the Madison center and transit-oriented district. She states the board can rely on that planning initiative, to help implement the goals of the plan of conservation and development.

There were no comments / questions 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 deliberations, the board agreed that based on safety and the fact that this plan is in accordance with the Town's plan of conservation and development, they support the request for variance from the town.

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

VC Brown made the motion to grant the application for variances per Section 4.1.17.3.13 on the basis that it increases public safety in the area by providing sidewalks, and that it is in accordance with the town's plan of conservation and development as requested by the town. Seconded by Commissioner Crowe and unanimously approved.

APPROVAL OF MINUTES: February 14, 2023

VC Brown made the motion to approve the February 14, 2023 meeting minutes. Seconded by Commissioner Crowe and unanimously approved.

The special meeting minutes of February 23, 2023 was tabled to the next meeting.

ADJOURNMENT:

Being no objections, the meeting was adjourned at 9:09p.m. by VC Brown.