

## **Subject to Approval**

### **MADISON PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES Jan. 21, 2020**

The Regular Meeting of the Madison Planning and Zoning Commission was conducted Thursday, Jan. 21, 2020, 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**

Chairman Ronald Clark, Vice Chairman James Matteson, Secretary Elliott Hitchcock, Joseph Bunovsky, Jr., Thomas Burland, John K. Mathers, Giselle Mcdowall, Seonaid Hay, and Joel Miller.

#### **MEMBERS ABSENT**

None.

#### **ALTERNATES PRESENT**

Peter Roos and Ron Bodinson.

#### **OTHERS PRESENT**

Director of Planning and Economic Development David Anderson. The meeting was recorded via Zoom Videoconferencing software for You Tube viewing.

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The Regular Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Chairman Ronald Clark.

#### **PUBLIC HEARING ITEM:**

20-16+CSP. Longshore Lane. Map 25, Lot 74-1. R-2 District. Owner/Applicant: Shorelands, LLC. Subdivision application to divide 22.38 acres into 5 lots. Also, Coastal Site Plan Review.

Professional Engineer Steven Sullivan stated that the applicants are still waiting for comments from town departments and the state Department of Energy and Environmental Protection (DEEP), and this application eliminates proposed development on Lots 4 and 5, therefore the maps have to be revised. Three house sites are now being proposed for Lot 1, Lot 2 and Lot 6, with Lots 1 and 2 having septic systems and wells, and Lot 6 being serviced by public water, according to Mr. Sullivan. All driveways will have pervious pavers, and the site plans will be amended, he stated. Since there seems to be opposition to the process the applicants are following for the Planning and Zoning Commission, Mr. Sullivan asked if Town Attorney Peter Gelderman could address this. Mr. Gelderman indicated he would comment, provided the chairman of the Planning and Zoning Commission allows him to do so; Chairman Clark granted permission. There is an obligation, on the part of the applicant, to submit an application to the Inland Wetlands and Watercourses Agency, before or at the same time as an application is

*Page 1. Madison Planning and Zoning Commission, Regular Meeting, Jan. 21, 2020*

submitted to the Planning and Zoning Commission, when an infrastructure, such as a road, is being proposed over a regulated wetlands area, according to Mr. Gelderman. At an earlier time, an application was submitted to the Planning and Zoning Commission, wherein Maplewood Lane was proposed to have a cul de sac in a regulated area, so the Inland Wetlands and Watercourses Agency had to rule on a permit for the regulated area, according to Mr. Gelderman. This current subdivision application, however, does not have any roads in a regulated area, therefore, no Inland Wetlands and Watercourses Agency permit is needed for a regulated activity, but the Inland Wetlands and Watercourses Agency is required to issue a report, according to Mr. Gelderman. The Inland Wetlands and Watercourses Agency should be told that Lots 4 and 5 are no longer part of the plans, and during the public hearing, revised plans could be submitted, according to Mr. Gelderman. The applicants have general comments from Director of Planning and Economic Development David Anderson, a letter from the Conservation Commission, and are still waiting for the comments from DEEP, according to Mr. Sullivan. Mr. Anderson stated that comments should also be received from the town health department, the fire department to determine the adequacy of Longshore Lane for emergency vehicles, and the town engineer. The next reiteration of plans will be for three house sites, and Mr. Sullivan stated that he would like to speak with the applicants' legal counsel to determine the appropriate ways to note Lots 4 and 5. Currently, Lots 1, 2 and 6 are the house site lots, but a revision may label them Lot 1, Lot 2, and Lot 3, according to Mr. Sullivan, adding that, years ago, the applicants actually had approval for all of these lots. The applicants' legal counsel will be spoken to, in order to determine whether Lots 4 and 5 should be labeled as "not proposed building lots" or "not buildable," according to Mr. Sullivan. After all questions from the Planning and Zoning Commission were addressed, Chairman Clark stated that when the commission has a specific plan, there will be more questions. Chairman Clark then opened the hearing to the public, by stating that there is an intervener in this matter, represented by Attorney Thomas Crosby. Mr. Crosby stated that, procedurally, he thinks there needs to be a resubmission of the application, because there is now going to be a substantive material change, and simultaneously an application needs to be submitted to the Inland Wetlands and Watercourses Agency for its review and any regulated activity permits. Attorney Eric Bernheim referenced Section 8-26(e), in regards to the simultaneous submission of applications to the Planning and Zoning Commission and the Inland Wetlands and Watercourses Agency, stating that Lots 1, 2 and 6 have wetlands on them, and unless an application is submitted to the Inland Wetlands and Watercourses Agency simultaneously with the Planning and Zoning Commission, the application is procedurally flawed. Mr. Gelderman stated that Mr. Bernheim has read the statute correctly; the application is before the Inland Wetlands and Watercourses Agency. The Planning and Zoning Commission is reviewing a subdivision of land, Mr. Gelderman stated; it is a subdivision application, and items may or may not go in that part or in that spot. Once locations are decided, that is when an application goes to the Inland Wetlands and Watercourses agency for a regulated activity permit, according to Mr. Gelderman. There is no public work or road proposed; there is nothing for the Inland Wetlands and Watercourses Agency to review, Mr. Gelderman stated. By no means does the Inland Wetlands and Watercourses Agency need to issue permits before the Planning and Zoning Commission renders a decision; right now, it is in a comment phase, from the wetlands point of view, Mr. Gelderman stated. Referencing a decision rendered in the earlier case involving this property, Mr. Gelderman stated that that case even references this two-step process, and, at that time, the applicant needed a regulated activity permit for the road, but the road is not in the plans, now. Litigation Attorney Lawrence Reilly, representing the applicant, stated that he is not sure the intervener will have statutory right, because Lots 4 and 5 are being removed, now, and referencing comments made regarding the public or private status of

Longshore Lane, Mr. Reilly stated that there are town documents that say Longshore Lane is a public road. Mr. Gelderman stated that the interveners do not have to be abutters to have intervener status; they could have that status, whether they are aggrieved or not; they can be interveners if they show that the development will have an adverse effect on the environment, the land, or the water. Attorney John Bennet stated that he takes a contrary position to Attorney Gelderman; there are regulated activities on all of these upland areas. Mr. Gelderman stated that the plan shows a development scheme; the application is showing that lots are capable of being developed. Activity is regulated if it is ever proposed to be built, and there is a difference between a subdivision plan and a site plan, according to Mr. Gelderman. Mr. Sullivan shared the subdivision plan. That's why the Inland Wetlands and Watercourses Agency needs to write a report—nobody is asking to do a regulated activity, Mr. Gelderman stated. It is a division of lots and has no regulated activity proposed on it, so the Inland Wetlands and Watercourses Agency has nothing to look at, he stated. Mr. Crosby stated that the Inland Wetlands and Watercourses Agency needs to submit a report, and a three-lot subdivision application has not been submitted to the Inland Wetlands and Watercourses Agency, on which it can render a report. The Inland Wetlands and Watercourses Agency has scheduled this for its February meeting, according to Mr. Crosby. There is a judgment the town was a part of, and the applicant was a part of, and that stated that Longshore Lane is private, Mr. Crosby stated. Mr. Sullivan stated that Attorney Crosby had earlier said that the town should be signing an application. Mr. Gelderman stated that the town is not a part of the subdivision application; it is not a part of the subdivision—town land abuts it, but it is not a part of it. To Chairman Clark, Mr. Gelderman stated that the Planning and Zoning Commission cannot render a decision until it receives the report from the Inland Wetlands and Watercourses Agency. Chairman Clark stated that he did not see any harm in continuing this hearing. The applicants are entitled to modify this plan during the course of this hearing, Mr. Gelderman stated, adding that the Planning and Zoning Commission, too, can approve, modify, or deny. Mr. Anderson stated that he recommends that the Planning and Zoning Commission continue this application; that is the advice being received from the town attorney. Mr. Gelderman advised the commissioners that there is a timeline to follow, adding that all of the deadlines could be extended, noting that Mr. Anderson could keep the commission apprised of the timelines. The public hearing could be continued to the Feb. 18, 2021 Planning and Zoning Commission meeting, thus adhering to the 35-day period of keeping the public hearing open without any extensions, according to Mr. Anderson. Mr. Sullivan stated that he could meet that. Chairman Clark advised Mr. Sullivan to also have the revised plans to the Inland Wetlands and Watercourses Agency before its next meeting.

**Commissioner Seonaid Hay made the motion to continue the public hearing to Feb. 18, 2021; it was seconded by Secretary Elliott Hitchcock and unanimously approved.**

Vote to continue the public hearing to Feb. 18, 2021 passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman James Matteson, Secretary Hitchcock, and Commissioners Hay, Joseph Bunovsky, Jr., John K. Mathers, Joel Miller, Giselle Mcdowall, and Thomas Burland.

OPPOSED: None.

ABSTAINED: None.

**21-01. 15 Meigs Avenue.** Map 38, Lot 115. DW District. Owner/Applicant: Keith Mirante. Minor Alteration of lighting in the Downtown Village District.

*Page 3. Madison Planning and Zoning Commission, Regular Meeting, Jan. 21, 2020*

Renovations and improvements to this building were reviewed by the Advisory Committee on Community Appearance (ACCA), which approved the plans, according to Director of Planning and Economic Development David Anderson. The property owner did replace the flood lights on the building with LED lights, but those lights did not have ACCA approval, according to Mr. Anderson. A complaint was filed about the glare of the lights, and Zoning Enforcement Officer John De Laura went to the site and saw that the lights were pointed upward; a request was made to angle them downward, and that took place, according to Mr. Anderson. The Madison Planning and Zoning Regulations are a little thin on regulating lighting, Mr. Anderson stated, and the person who initiated the complaint sent him information from another town, which has better guidance on lighting. Mr. Anderson stated that he presented this application to the commissioners, just to have them review and give their thoughts. Commissioners who visited the property on Meigs Avenue to see the lighting gave their opinions on it, most noting that it was very bright, a bright and glaring white light, distracting, very tall, and brighter than is needed. Comments, so far, suggest to him that they need further adjustment, Mr. Anderson stated, adding that he will work with the property owner on this, to either tone down the lighting or get another fixture. Commissioner Joseph Bunovsky, Jr. stated that clearly the lights are LED lighting, and in the past, lighting consisted of gas, incandescent, or fluorescent, all under 4,000 Kelvins. But, today, everyone is buying LED lighting and loves the 5,000 Kelvins, Commissioner Bunovsky stated, asking whether it is in the Planning and Zoning Commission's purview to recommend warmer lighting in the 3,000 to 4,000 Kelvin range. Mr. Anderson stated that it can be in the Planning and Zoning Commission's purview, understanding that the property owner may not want to spend more money on this. It is pretty inexpensive to replace an LED light with a different bulb, and that is why he suggested it, Commissioner Bunovsky stated. The lights are turned off at 8 p.m., and they are on a timer, Mr. Anderson stated.

### **Election of Officers**

Vice Chairman James Matteson called for the nominations for secretary, vice chairman and chairman. Currently, the officers are Secretary Elliott Hitchcock, Vice Chairman James Matteson and Chairman Ronald Clark.

**Commissioner Bunovsky nominated Commissioner Hitchcock as secretary; it was seconded by Commissioner Miller and unanimously approved.**

Vote to elect Commissioner Hitchcock as secretary passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, and Commissioners Hitchcock, Hay, Bunovsky, Mathers, Miller, Mcdowall, and Burland.

OPPOSED: None.

ABSTAINED: None.

**Commissioner Bunovsky nominated Commissioner Matteson as vice chairman; it was seconded by Commissioner Mathers and unanimously approved.**

Vote to elect Commissioner Matteson as vice chairman passed, 9-0-0.

IN FAVOR: Chairman Clark, Secretary Hitchcock, and Commissioners Matteson, Hay, Bunovsky, Mathers, Miller, Mcdowall, and Burland.

OPPOSED: None.

ABSTAINED: None.

**Secretary Hitchcock nominated Commissioner Clark as chairman; it was seconded by Commissioner Bunovsky and unanimously approved.**

Vote to elect Commissioner Clark as chairman passed, 9-0-0.

IN FAVOR: Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Clark, Hay, Bunovsky, Mathers, Miller, Mcdowall, and Burland.

OPPOSED: None.

ABSTAINED: None.

**2021 Meeting Schedules.** No action taken.

**Approval of Minutes:** Regular Meeting – December 17, 2020; Site Walk Minutes – January 2, 2021; Planning Meeting – January 7, 2021

#### **Regular Meeting, Dec. 17, 2020**

**Commissioner Bunovsky made the motion to approve the Dec. 17, 2020 minutes, as submitted; it was seconded by Chairman Clark and unanimously approved.**

Vote to approve the Dec. 17, 2020 minutes passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Hay, Bunovsky, Burland, Mathers, Miller, Mcdowall.

OPPOSED: None.

ABSTAINED: None.

#### **Site Walk Minutes, Jan. 2, 2021**

**Commissioner Bunovsky made the motion to approve the Jan. 2, 2021 site walk minutes, as submitted; it was seconded by Chairman Clark and unanimously approved.**

Vote to approve the Jan. 2, 2021 minutes passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Hay, Bunovsky, Burland, Mathers, Miller, Mcdowall.

OPPOSED: None.

ABSTAINED: None.

#### **Planning Meeting Minutes, Jan. 7, 2021**

**Chairman Clark made the motion to approve the Jan. 7, 2021 minutes, as submitted; it was seconded by Commissioner Burland and unanimously approved.**

Vote to approve the Jan.7, 2021 minutes passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Hay, Bunovsky, Burland, Mathers, Miller, Mcdowall.

OPPOSED: None.

ABSTAINED: None.

**Remarks: Commission Chair** ~ Chairman Clark reminded commissioners to respond to the email invitation to attend the March 6, 2021 Connecticut Bar Association Land Use Seminar, stating that it is time exceptionally well spent.

**Director of Planning & Economic Development** ~ Mr. Anderson stated that Jerry Davis is moving forward with a 30-unit apartment building planned for Bradley Road, with reviews by ACCA and the Inland Wetlands and Watercourses Agency; there are 20 two bedroom units and 10 one bedroom units. In addition, Marina Landing may return to the Planning and Zoning Commission with modifications; and Mr. Anderson stated that he will find out more about docks being placed at 4 Boston Post Road. Finally, Mr. Anderson stated that he met with the Boards of Finance and Selectmen about the budget and has proposed a full time position be included that would combine the Inland Wetlands official position with an environmental specialist, who would also be responsible for a variety of land use commissions, such as the Conservation Commission and the Coastal Resiliency Commission, among others. Mr. Anderson stated that he will make a job description and share it with the Planning and Zoning Commission. In the affordable housing initiative, there is a committee working on this, and Mr. Anderson stated that he would like it to include people who work in town, such as teachers or local business employees, who would love to live in Madison, but are currently unable to do so, due to the lack of affordable housing—these committee members would not be required to be Madison residents to serve on the panel.

Alternate Commissioner Ron Bodinson asked Mr. Anderson if the commissioners could be provided with the settlement agreement which was, and has been, referred to during Longshore Lane application discussions. Mr. Anderson stated that those are legal arguments that need to be decided in court, and the Planning and Zoning Commission has no jurisdiction over that; however, he will speak to Attorney Peter Gelderman about this request.

## **Adjournment**

**Commissioner Bunovsky made the motion to adjourn at 8:31 p.m.; it was seconded by Commissioner Mcdowall and unanimously approved.**

Vote to adjourn at 8:31 p.m. passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Hay, Bunovsky, Burland, Mathers, Miller, Mcdowall.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,  
Marlene H. Kennedy, clerk