

Subject to Approval

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
March 9, 2021**

The Regular Meeting of the Madison Zoning Board of Appeals was conducted Wednesday, March 9, 2021, 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

Chairman Ned Moore, Vice Chairman Thomas Kelty and Commissioners Richard Gilbert and William Piggott.

MEMBERS ABSENT

Jason Brown.

ALTERNATES PRESENT

Dennis Crowe and Catherine Ferrante.

OTHERS PRESENT

Zoning Enforcement Officer John De Laura; Director of Planning and Economic Development David Anderson.

Chairman Ned Moore called the public hearing and regular meeting of the Madison Zoning Board of Appeals to order at approximately 7 p.m., and he reviewed the procedures, including that by state statute, four votes are needed to approve applications, and a simple majority is not sufficient. The legal notice, as published, was read into the record. Agenda items were taken in the order prescribed in the minutes. Chairman Moore, in the absence of Commissioner Jason Brown, seated alternate Commissioner Catherine Ferrante.

8238. 479 Opening Hill Road. Map 109, Lot 2. RU-1 District. Owner/Applicant: Timothy Mack. Request to vary Sec. 5.5(f) of the Madison Zoning Regulations to allow a front yard of 36.5 ft. where 40 ft. is required to permit addition of second floor over existing first floor.

Owner and Applicant Timothy Mack stated that the overall concept and plan for the project is to transform the existing house, which has two parts, the first having been built in the 1830s and the second in 1960, consisting of out buildings, a front porch, and a detached garage; he is building this for his family. Plans are to add a second floor to the existing house, as well as a garage, and remove the out buildings and the detached garage, as well as the enclosed front porch on the first floor. Mr. Mack shared the plans and stated the footprint is being consolidated by removing the front porch; in adding the second floor on the existing footprint, to adhere to the letter of the regulations, it would have to be placed 3.5 feet back on the first floor, but this would not be structurally or architecturally sound. By putting the second floor over the existing first floor, there are improvements of the nonconformities, according to Mr. Mack. He stated that the second floor does not obstruct the view of any neighbors, and there are similar houses in the neighborhood. It will be a modern residence with a new well, new septic system, new

everything, Mr. Mack stated. The request is for the second floor; the first floor is basically grandfathered; if a second floor is placed on top of the first floor, it will not increase any incursion in the first floor, according to Commissioner Dennis Crowe. Commissioner Richard Gilbert asked Mr. Mack to show the nonconformities that he is reducing. Mr. Mack stated that the reduced nonconformities exist in the removal of the existing enclosed porch on the front, toward the street side. Chairman Moore stated that the plans do not expand into the street, and the existing nonconformity in the front is being reduced. Zoning Enforcement Officer John De Laura stated that in the absence of a legal hardship, which the applicant does not have, he is reducing a nonconformity; in the absence of a legal hardship, it is acceptable to reduce the nonconformity. There were no letters in favor of or in opposition to the application. Section 12.6 of the zoning regulations states that no building shall be enlarged unless it conforms to the regulations, and Commissioner Catherine Ferrante sought clarification on this. The variance process, in general, exists so people are able to apply for a variance to proceed with a construction project that may not be allowed when strictly following the regulations, according to Director of Planning and Economic Development David Anderson. Of the variance requests the land use office sees, this one is as close to a no brainer as those that are seen, according to Mr. Anderson. It is really as benign a request as can be received, according to Mr. Anderson. Chairman Moore asked whether anyone in the public wanted to speak in favor of or in opposition to the application, and no one did, so the Zoning Board of Appeals moved into deliberations. Commissioner William Piggott stated that the applicant is reducing the nonconformity and he thinks it is pretty straight forward; therefore, he would vote in favor. Commissioner Ferrante stated that she also likes the reduction in nonconformity and would vote in favor; Chairman Moore also agreed. Vice Chairman Thomas Kelty stated that he agrees with the commissioners; the application is not asking a lot. Commissioner Gilbert stated that definitely the reduction in the nonconformity, and given the fact that the house was built before zoning regulations could also be a mitigating factor. Chairman Moore moved that the public hearing be closed.

Commissioner Gilbert made the motion to approve the application for the variance for Sec. 5.5(f) at 479 Opening Hill Road, and that the plans be adhered to, with the basis for the variance being the reduction in nonconformities, as well as the fact that the house was built in the 1830s, long before zoning; it was seconded by Commissioner Piggott and unanimously approved.

Vote to approve the variance for 479 Opening Hill Road passed, 5-0-0.

IN FAVOR: Chairman Moore, Vice Chairman Kelty, and Commissioners Gilbert, Crowe and Ferrante.

OPPOSED: None.

ABSTAINED: None.

8239+CSP. 10 Tuxis Road. Map 16, Lot 44. R-5 District. Owner/Applicant: Mark Holter. Request to vary Secs. 3.6(d), 3.8(b) to allow a side yard of 9 ft. where 12 ft. is required, to allow coverage of 2,214 sq. ft. where 1,432 sq. ft. is allowed, floor area of 3,108 sq. ft. where 2,720 sq. ft. is required to permit existing dwelling to be demolished and new dwelling constructed. Coastal Site Plan Review required. – **WITHDRAWN.**

APPROVAL OF MINUTES: January 12, 2021 Regular Meeting; March 3, 2021 Special Meeting.

Commissioner Piggott made the motion to approve the minutes of Jan. 12, 2021, as submitted; it was seconded by Chairman Moore and unanimously approved.

Vote to approve the Jan. 12, 2021 minutes as submitted passed, 5-0-0.

IN FAVOR: Chairman Moore, Vice Chairman Kelty, and Commissioners Gilbert, Crowe, and Ferrante.

OPPOSED: None.

ABSTAINED: None.

Chairman Moore made the motion to approve the minutes of March 3, 2021, as submitted; it was seconded by Commissioner Piggott and unanimously approved.

Vote to approve the March 3, 2021 minutes as submitted passed, 5-0-0.

IN FAVOR: Chairman Moore, Vice Chairman Kelty, and Commissioners Gilbert, Crowe, and Ferrante.

OPPOSED: None.

ABSTAINED: None.

ADJOURNMENT ~ Commissioner Gilbert moved that the Zoning Board of Appeals meeting be adjourned, and Commissioner Crowe agreed to close the meeting at 7:34 p.m.

Respectfully submitted,
Marlene H. Kennedy
Clerk