

**Subject to Approval**

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES  
April 13, 2021**

The Regular Meeting of the Madison Zoning Board of Appeals was conducted Tuesday, April 13, 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.

**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 Dennis Crowe.

**8242. 39 Seaview Avenue.** Map 28, Lot 92. R-4 District. Request to vary 3.8b and 12.6 of the Madison Zoning Regulations to allow 2,107 sq. ft. coverage where 1,480 is allowed, and allow 3,385 floor area where 2800 sq. ft. is allowed, to permit new dormer and front porch to be extended enlarging an existing non-conforming structure.

Attorney Christopher McKeon, on behalf of property owners Sally and William Hines, introduced Architect Robert Sanders to present the application. The 39 Seaview Avenue residence was built in 1910, and Mr. Sanders shared an early photograph of the site, stating that the property has not been significantly altered since the time of the photograph. Plans are to restore a porch to allow an addition and reorganization of spaces on the first floor, to address some of the problems in the existing house, according to Mr. Sanders. He shared the house plans. The structure currently has a central staircase that is 32 inches wide with headroom as low as 73 inches; there is a bathroom between the front part of the house and the rear of the house, and plans are to eliminate the connection through the bathroom; a new staircase will be constructed for the first and second sections and the attic. The lot is unusually narrow, in that it is a 50-foot wide lot, in a zone that requires 80 feet in its width, according to Mr. Sanders, who stated that this lot is unique in its width. There is currently 1,895 square feet of building

coverage on site; there will be a 212 square foot addition, and the construction will allow the house to slide out to the conforming part of the site. Mr. Sanders described Seaview Avenue as having a porch culture. Plans are to utilize the third floor of the existing structure, relocate the stairs from the center of the house to the side, follow up the roof line, and add a dormer above an existing dormer. The structure will be within conformity of the maximum building height for that lot. Plans are to move the stairway off to the side, off the first floor, up to the second floor landing, and continue up to the fourth bedroom. Four bedrooms currently exist, but one will be removed and replaced with a bathroom; there will be 473 square feet in the proposed attic. The goal is to maintain the character of the neighborhood, according to Mr. Sanders, who shared photographs of 39 Seaview Avenue and neighboring houses, as well as an aerial view. There will be a new septic system, as well, he stated. Mr. Sanders included in the application an analysis which compared the density of the adjacent structures to the proposal for 39 Seaview Avenue. Mr. Sanders stated that he wanted to note the half stories; three of the existing neighbors have half stories, with structures ranging from 6,000 square feet to 10,000 square feet; 39 Seaview Avenue is in that range—neither the largest nor the smallest. At the conclusion of his presentation, the Zoning Board of Appeals asked questions, which were addressed. Everything will be in conformance except for the existing west side yard, according to Mr. Sanders. Chairman Moore stated that he is bringing the house into conformance as much as possible; in terms of the design, it is a good way of refashioning the house to make it more 21<sup>st</sup> Century livable. Commissioner William Piggott stated that by redesigning the house, the stairway, which is noncompliant, becomes compliant, and the means of egress, which is also not in compliance, is brought into compliance; safety hazards are corrected in the design. To meet the building code, an old stairway cannot remain, nor would residents be able to wander through a bathroom to get to the other side of the house, according to Mr. Sanders. Attorney McKeon stated that he sent a letter to the commissioners that points out the new safety features that Commissioner Piggott mentioned. While there are narrow lots, seldom do they have 9,000 square feet; 39 Seaview Avenue is unusual, given that the size of the lot is so large, yet the lot, itself, is narrow, according to Mr. McKeon. This is a refreshing application in that they are going out of their way to make a quintessential home along the shoreline, according to Mr. McKeon. In terms of hardship, Mr. McKeon stated that his letter laid out his various points of the hardship, which include building code and safety issues, uniqueness of the lot shape, and the density analysis. The space is really being shifted and used more intelligently and safely; this is a modest request and well justified by the factors laid out in the letter, according to Mr. McKeon. One of the attendees requested to speak, Andrew Wood, of 37 Seaview Avenue. Mr. Wood stated that he wrote a letter April 1, 2021, and they are very supportive of the application. Chairman Moore closed the public portion of the meeting for discussion. Commissioner Piggott stated that it is refreshing to see a zoning application that is a very intelligent design, in keeping with the area and the style of the houses along the street. Commissioner Dennis Crowe stated that this application seemed to clarify and demonstrate clearly the hardship. There is a reduction in the nonconformities, and the commissioners can let the application go forward, as a result, stated Chairman Moore. In keeping the existing structure, a restriction results due to the hardship of the lot size, according to Commissioner Richard Gilbert. Vice Chairman Thomas Kelty stated that the considerations entered into regarding the changes were well thought out. Both the architect and the owner have maintained the historic character and have brought the house into 21<sup>st</sup> Century design.

**Commissioner Crowe made the motion to approve application 8242. 39 Seaview Avenue. Map 28, Lot 92. R-4 District. Request to vary 3.8b and 12.6 of the Madison Zoning**

**Regulations to allow 2,107 sq. ft. coverage where 1,480 is allowed, and allow 3,385 floor area where 2800 sq. ft. is allowed, to permit new dormer and front porch to be extended enlarging an existing non-conforming structure. The motion was seconded by Commissioner Piggott and unanimously approved.**

Vote to approve 39 Seaview Avenue passed, 5-0-0.

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

OPPOSED: None.

ABSTAINED: None.

**8240. 72 Wickford Place.** Map 96, Lot 40. Request to vary Section 11.2 of the Madison Zoning Regulations to allow an accessory building to be built 10 feet from the property line where 20 feet is required.

Building Contractor Travis Gulick stated that the house is near the end of a cul de sac, and he shared a survey of the property, as well as the plans. The existing house has a porch to the left and an existing shed. Plans are to remove the shed. The plans depicted a series of lines that show the elevation and grade changes on the site; there is a 16-foot drop in the back yard, and that is the main reason for this accessory building request, according to Mr. Gulick. The drawings showed the front of the garage plans and how the design matches with the existing house; the whole design and the whole property is cohesive, according to Mr. Gulick. In indicating that there is 10 feet to the drip edge, Mr. Gulick stated that if this were a flat piece of property this variance would not be needed. At the end of the driveway, the elevation is at 96 feet, and then it drops down considerably, he stated. Instead of remaining at 10 feet, the drop off on the land results in it being 20 feet. Mr. Gulick showed color photographs of the driveway to Wickford Place and stated that plans are to connect the existing deck to the garage; the deck will be connected to the garage and the house, for ease of access. Once built, the garage cannot really be seen from the street, and vegetation screens the garage from neighbors' view, according to Mr. Gulick. He explained that 20 feet to the drip edge is the variance request. In addition, the neighbors have indicated support for the project, according to Mr. Gulick. The reason for the variance is that from the ground to the roof drip edge there has to be a one to one ratio, so from the front of the garage to the drip edge, it is 10 feet, but due to the drop of the land in the back of the property, it is 20 feet, when it should be 10 feet, according to Mr. Gulick. During the commissioners' discussion on the application, Zoning Enforcement Officer John De Laura stated that they are eliminating a pre-existing nonconforming structure, in removing the shed; that extinguished a pre-existing nonconformity, and it is something the commissioners can trade. In addition, the topography of the land does play a role, in the absence of a legal hardship, Mr. De Laura stated. If it were not for the topography, the 10 feet would comply, he stated. In the absence of a legal hardship, the topography can be considered; the courts have allowed that, as well as eliminating a pre-existing nonconformity, Mr. De Laura stated. Commissioner Piggott stated that he likes the fact that they are eliminating the pre-existing nonconforming shed; they have no other choice on where to build. Commissioners sought clarification on the town's planning and zoning regulations, in reference to accessory buildings, and the regulations indicate that if an accessory building complies with the regulations, then an applicant is allowed the use of the accessory structure. Property Owner Eric Hogarth stated that the house was built in 1988; the garage cannot be put near the cul de sac, because it is used as an access for hiking, plus the property elevation is steeper in that location, and there is no other place to put the garage. Mr.

Gulick stated that two letters of support were sent to the Zoning Board of Appeals, one from Lawrence Minicone and the second from Roger Mason. Commissioner Crowe stated that he sees plans for a building that is big enough to hold four cars, and there is no hardship, and he struggles with that. If the garage were pulled back to be 20 feet in length, rather than 40 feet, that would move the structure to a point where the drip edge is no longer 20 feet, but instead, 15 feet, and a variance would still be needed, according to Commissioner Crowe. Mr. Gulick confirmed that statement. If it were not for the fact that the ground dropped off, then a variance would not be needed, and the accessory building could just be built, according to Commissioner Crowe. Mr. Gulick confirmed that statement. Chairman Moore stated that he did not know where else the accessory building could be placed; a nonconforming use, in the form of the shed, is being removed, and whether that warrants the size of the accessory building is up to the owner. The building is not in anyone's line of sight, and it really cannot be seen from the street, Chairman Moore stated. Except for the fall off of the property, the 40 foot length is completely irrelevant, Commissioner Crowe stated. From a perspective of need, the hardship is the drop off of the land, according to Commissioner Crowe. Commissioner Gilbert stated that he is trying to find a hardship, and he can see one, basically, in the fact that if this land were flat, the homeowner would not even be seeking a variance. The question is whether the slope of the property is a hardship, and does the Zoning Board of Appeals want to grant it, according to Commissioner Gilbert. Commissioner Piggott stated that he agrees with the points brought out by Commissioners Crowe and Gilbert and Chairman Moore; Vice Chairman Kelty also agreed.

**Commissioner Crowe made the motion to approve application 8240. 72 Wickford Place. Map 96, Lot 40. Request to vary Section 11.2 of the Madison Zoning Regulations to allow an accessory building to be built 10 feet from the property line where 20 feet is required. The motion was seconded by Commissioner Piggott and unanimously approved.**

Vote to approve 72 Wickford Place passed, 5-0-0.

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

OPPOSED: None.

ABSTAINED: None.

**8241. 113 Liberty Street.** Map 29, Lot 147. R-2 District. Request to vary Section 3.6a and 12.6 of the Madison Zoning Regulations to allow a front yard of 13 feet where 40 feet is required to permit addition of second floor over existing first floor sunroom enlarging an existing non-conforming structure.

Building Contractor Travis Gulick stated that 113 Liberty Street is a historic house that sits 13 feet from the road; he shared photographs of the structure. There is a dormer in the front, and on the side of the house, they received a variance in 2007 to build a sun porch; the property owners are looking for a little more square footage on the second floor, and they would like to put the addition over the porch, according to Mr. Gulick. It is a four season porch with a foundation, he stated, and he shared the 2007 survey of the proposed structure that was approved in 2007, as well as the plans. Proposed is a second floor above the 2007 addition, to make it more cohesive and fitting with the design of the existing house; the main house second floor and the proposed

second floor will have to be connected, according to Mr. Gulick. The whole house, which was built in 1780, is in the front yard setback, Mr. Gulick stated, adding that most of the houses on Liberty Street are on the road. Zoning Enforcement Officer John De Laura stated that they are just adding a second story to an existing first story; it is in compliance now; the whole house is in the setback, and a pre-existing nonconforming structure is being expanded. Chairman Moore closed the public portion of the meeting and went into Zoning Board of Appeals deliberations. Technically speaking, there is room on the property to add the needed space within the setback, Commissioner Crowe stated, but not much is gained by requiring that it be built in the backyard. Chairman Moore stated that the back yard has a lot of ledge. Commissioner Gilbert stated that it is a nonconforming structure, and it is a historic building built before zoning, so it is pre existing, therefore he is in favor of granting the variance. Vice Chairman Kelty stated that he would tend to agree with granting the variance. Chairman Moore stated that the board is coming out of deliberations and reopening the public portion of the meeting.

**Commissioner Crowe made the motion to approve application 8241. 113 Liberty Street. Map 29, Lot 147. R-2 District. Request to vary Section 3.6a and 12.6 of the Madison Zoning Regulations to allow a front yard of 13 feet where 40 feet is required to permit addition of second floor over existing first floor sunroom enlarging an existing non-conforming structure. It was seconded by Vice Chairman Kelty and unanimously approved.**

Vote to approve 113 Liberty Street passed, 5-0-0.

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

OPPOSED: None.

ABSTAINED: None.

**APPROVAL OF MINUTES:** March 3, 2021 Special Meeting; March 9, 2021 Regular Meeting.

**Commissioner Crowe made the motion to approve the special meeting 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 Piggott.

OPPOSED: None.

ABSTAINED: None.

**Commissioner Crowe made the motion to approve the regular meeting minutes of March 9, 2021, as submitted; it was seconded by Commissioner Piggott and unanimously approved.**

Vote to approve the March 9, 2021 minutes as submitted passed, 5-0-0.

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

Piggott.

OPPOSED: None.

ABSTAINED: None.

**Adjournment:** Chairman Moore stated that there being no further business, the Zoning Board of Appeals meeting adjourns at 8:54 p.m.

Respectfully submitted,  
Marlene H. Kennedy  
Clerk