

## **Subject to Approval**

### **MADISON PLANNING AND ZONING COMMISSION PLANNING MEETING MINUTES June 4, 2020**

The Planning Meeting of the Madison Planning and Zoning Commission was conducted Thursday, June 4, 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, Thomas Burland, Joseph Bunovsky, Jr., John K. Mathers, Joel Miller, and Giselle Mcdowall.

#### **MEMBERS ABSENT**

Brian Richardson.

#### **ALTERNATES PRESENT**

Peter Roos and Ron Bodinson.

#### **OTHERS PRESENT**

Director of Planning and Economic Development David Anderson, Selectwoman Erin Duques, and the meeting was recorded via Zoom Videoconferencing software for You Tube viewing.

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The Planning Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Chairman Ronald Clark. Chairman Clark seated Alternate Commissioner Ron Bodinson for absent Commissioner Brian Richardson.

#### **Public Hearing Item:**

**20-08. 503 Old Toll Road.** Map 143, Lot 20. RU-1 District. Owner: Madison Investment Group LLC. Applicant: Wildwood Behavioral Health, LLC. Special Exception Permit to utilize the existing buildings to provide professional outpatient behavioral health services for adults. The facility will be licensed by the Connecticut Department of Health to provide outpatient programming including individual, group, family and activity therapies for individuals with low to moderate severity psychiatric (including substance abuse) disorders requiring non-hospital, non-medically managed treatment. Treatment services will not include methadone maintenance. *Continued from May 21, 2020 Planning Meeting.*

Attorney Katy J. Armenia, representing the applicant, reviewed and summarized the differences between the applicant's proposal, which she stated is based on Section 5.4(d) of the town's planning and zoning regulations, and the objectors' stance against the application, which she stated is based on Section 5.4(g) of the town's planning and zoning regulations. The objectors' choice of Section 5.4(g) is based solely on the Certificate of Need (CON) application, a document which is not required for the Planning and Zoning Commission Special Exception Permit, and, in doing do, they want to categorize the facility into a clinic, full type version, when, quite clearly, the applicant is, in fact, providing a counseling center for those who have

*Page 1. Madison Planning and Zoning Commission, Planning Meeting, June 4, 2020*

substance abuse issues with alcohol or drugs, according to Ms. Armenia. The proposed facility will provide outpatient services, it is not a methadone clinic, it will not be utilized for emergency services, nor will it dispense drugs, she stated. Those visiting the facility have, in fact, gone through inpatient care or rehabilitation, and their visits would consist of therapeutic group settings, according to Ms. Armenia. Referencing studies brought up by those objecting to the application, Ms. Armenia stated that she does not believe any of those studies are relevant; one took place in Seattle, Washington, in the year 2014, and she stated that she cannot put much stock in that, nor is she able to discuss that study with its author. Ms. Armenia asked that the Planning and Zoning Commission rely purely on the statement of use, which her client has provided to the commission.

Attorney Steve Rickman stated that Attorney Armenia would like the Planning and Zoning Commission to consider the statement of use that was submitted. It specifically references psychiatric outpatient clinic; that is what was sworn into the state, according to Mr. Rickman. The applicant, Dr. Michael Hinkley, has applied to the state for a license for a psychiatric outpatient clinic, and, as a clinic, it has to meet the setback requirements, and it does not, Mr. Rickman stated. It is not a permitted use, Mr. Rickman stated. There is empirical evidence of negative impact on property values, Mr. Rickman stated.

Ms. Armenia stated that they recognize that the neighbors are concerned that the people who come to this facility may bring them harm, or that the stigma of this facility will cause property values to decline, and she asked Chairman Clark if Peter Rockholz could be given an opportunity speak, which was granted.

In reviewing the town's planning and zoning regulations for the definition of clinic, there is walk-in clinic, much like the CVS Minute Clinic, and urgent care clinic, similar to the Middlesex Urgent Care facility, according to Consultant Peter Rockholz. The definition does not talk about general health care or psychiatric health care, he stated. The applicant is seeking permission for a substance use disorder clinic for outpatient care, and 80 percent of those also have co-occurring psychiatric conditions, such as depression, according to Mr. Rockholz. The term, psychiatric outpatient clinic is an artifact of the 1960s; it is a term that is no longer used, according to Mr. Rockholz. This is a clear case wherein the application fits in the category of office, medical, or office, professional, according to Mr. Rockholz. While he knows there is a lot of concern about drug treatment programs that are residential, this is not a residential program, Mr. Rockholz stated.

Commissioner Thomas Burland asked Dr. Hinkley if he would be providing any medical services in this office, and Dr. Hinkley stated that he would not. Commissioner Burland asked whether clients would walk in or have an appointment to visit, and Dr. Hinkley stated that they have to be telephone screened and then given an appointment. Commissioner John Mathers stated that the application is for a psychiatric outpatient clinic, which uses the word clinic, but clinic is an outdated term; he sought clarification on this. Mr. Rockholz stated that the license is for substance abuse, and it is also a psychiatric license—psychiatric care would be for depression or anxiety. The term clinic is no longer associated with facilities like the one being proposed, according to Mr. Rockholz. Commissioner Joel Miller stated that there is a lot of discussion and a lot of interpretation of the application; it is incumbent upon everyone to know the differences between such terms as clinic and outpatient clinic. Clinic is used in veterinary clinics and methadone clinics, urgent care clinics, Mr. Rockholz stated. Commissioner Miller stated that he wants the definition of clinic from state statute, referencing Section 19 of the Connecticut Public

*Page 2. Madison Planning and Zoning Commission, Planning Meeting, June 4, 2020*

Health Code. That is the licensing section, Mr. Rockholz stated; if commissioners try to square that with the definition in Madison's Planning and Zoning Regulations, then there is nothing in Madison's definition that is in the licensing section of the public health code. Mr. Rickman raised the issue of this concept of outdated artifact as terminology, stating that what is being discussed is current law—it is not antiquated, because that is what is in the law, now. Clinic is being cited as to what a clinic is, in terms of the definitions in the zoning regulations, and what is being referred to by the applicant is an outpatient clinic, found in Section 5.4(g), Mr. Rickman stated. Dr. Hinkley stated that what happens in his office is no different than a therapist's office. Currently, groups are seen for one hour a day, but if the application is approved, the new building will facilitate the ability to extend that group time to three or four hours a day, according to Dr. Hinkley.

Chairman Clark asked for questions from the public, which were addressed. In response to questions regarding obtaining additional licensures for the facility, Mr. Rockholz stated that in order to provide a methadone clinic, there is a separate license required, and Dr. Hinkley is not seeking that license. Such a license would have to meet pharmacy requirements, nursing requirements, and the ability to do physicals on site, according to Mr. Rockholz, who added that methadone will never be considered. Drug testing is required for any outpatient treatment facility, but it would be done through a contracted laboratory, and it does not have to be done by a medical staff, Mr. Rockholz stated.

Commissioner Miller asked Director of Planning and Economic Development David Anderson what would be required, if, in the future, the facility decided to apply for a license to have a methadone clinic; would it be considered a change in use and have to be heard by the Planning and Zoning Commission in a public hearing? Mr. Anderson stated that he would say probably not, unless the Planning and Zoning Commission makes that a condition of approval to this application.

Chairman Clark asked the public to speak, first, in favor of the application, and then, in opposition to the application, reminding them that many have submitted letters, all of which the Planning and Zoning Commission has read, and they are a part of the record. Therefore, it is not necessary for anyone to read their letters during this portion of the public hearing, according to Chairman Clark. Ms. Armenia reminded the Planning and Zoning Commission that the applicant has submitted letters of support, as well. No one spoke in favor of the application; Chairman Clark stated that the commission has letters of support in the record.

Chairman Clark asked if anyone wanted to speak in opposition to the application.

Jean Fitzgerald of 25 Northwood Road stated that everything is so vague, including the definitions, and no one seems to have a definite answer. Of concern is the fact that the Planning and Zoning Commission could give approval for this clinic, which could then receive another license from the state, yet there would be no requirement to notify the town or the Planning and Zoning Commission of the new use or new license, according to Ms. Fitzgerald. At any point, they could make changes, and that is of concern, she stated. There is no way for the town to monitor what is going on in the clinic, once it receives its approval, according to Ms. Fitzgerald. Matt Ilardi stated that he is against the facility's proximity to the residential area, as well as the fact that there would be no control over a change in business use, down the road. Jen Washburne of 68 Northwood Road, asked the Planning and Zoning Commission to visit the property to observe its closeness to adjacent neighbors. Chairman Clark stated that he and the

*Page 3. Madison Planning and Zoning Commission, Planning Meeting, June 4, 2020*

commissioners have visited the site and appreciate her comment. Jack Wagner of 29 Swarthmore Lane stated that he was the original owner of 12 Northwood Road, and the back yards are very close; he asked the Planning and Zoning Commission to consider the impact of the proposed facility on the community. Robert Szczesny of 12 Northwood Road stated that he moved to the residence when the Boston Post Road building was a nursery school, and he would not have bought the house if it had been a drug clinic. Emily Trenchard of 87 Mending Wall Circle stated that she finds it really hard to believe that the applicant cannot find a more appropriate building for this facility, elsewhere; there are places all along Route 79 that are suitable, and she is opposed to it going in this location. Martha McCrann of 16 Northwood Road stated that she is opposed to the application. When the building had a nursery school in it, it was closed by 6 p.m. and not open during the summer, but the proposed facility can be open late and all year, according to Ms. McCrann. Jane Carderelli of 36 Sheffield Lane stated that she is very worried about any future treatments that could take place at this facility, and she believes it can be placed somewhere else in town.

Chairman Clark asked for closing comments.

Ms. Armenia stated that she has submitted a memorandum with exhibits, an expert has spoken on behalf of the applicant, the Planning and Zoning Commission does have the power to condition this proposal, and the applicant does not object to that. People are in need of services for substance abuse, and this proposal offers a wonderful purpose, according to Ms. Armenia. Dr. Hinkley stated that the placement of the office in that location came after an exhaustive search, and the goal was to find a suitable location that offered privacy, a lot of calm, and peacefulness—he does a lot of work with nature. He stated that he has not been involved in methadone work and he has no intention of being involved in it. Finally, he has no objection to a conditioned approval.

**Commissioner Burland made the motion to close the public hearing; it was seconded by Commissioner Mathers and unanimously approved.**

Vote to close the public hearing passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman James Matteson, Secretary Elliott Hitchcock and Commissioners Burland, Joseph Bunovsky, Jr., Mathers, Giselle Mcdowall, Miller, and Ron Bodinson.

OPPOSED: None.

ABSTAINED: None.

Chairman Clark asked the commissioners to speak.

Commissioner Burland stated that everyone would all be in a better place if they could destigmatize these types of service. In reviewing definitions for clinic, he believes that because this facility does not provide immediate care or walk-in treatment, it is an allowable use. He stated that he would probably be in favor of this, if some conditions could be put on the application, such as non residential, no medical treatment, acceptable hours of operation, no drug therapies, no parking overnight, the office has to close by 9 p.m., and no prescribing of drugs or medication. Commissioner Bodinson stated that the application fits the definition of a medical office, and he is satisfied that it is not a clinic, as defined in Madison's regulations. The property faces a state highway, and it does back up to a residential subdivision; testimony from neighbors is that the use of this property has always been a running issue, Commissioner Bodinson stated.

*Page 4. Madison Planning and Zoning Commission, Planning Meeting, June 4, 2020*

The market has already resolved that there is property here that has been an issue for years, if not decades, and he suggested the application be conditioned. It is a fitting use for the property, and Commissioner Bodinson stated that he is not opposed to it. Commissioner Mathers stated that the Planning and Zoning Commission is not entertaining a zoning change, it is just deciding whether this is an appropriate use for the site. Vice Chairman James Matteson stated that this is for a Special Exception Permit, and when granted, it must do no harm; this is a residential area, and he has to listen to the residents. Vice Chairman Matteson stated that he is not fully convinced this is not a clinic. Commissioner Miller stated that he struggles with harm to the community, but the opposition to this type of facility mirrors the intolerance that is all too common in this society. There are no beds in the proposed facility and no medical treatment; there is a lot the commission can do with the jurisdiction it has, to put conditions on this application, Commissioner Miller stated, adding that he believes this is a medical office. Secretary Hitchcock stated that this facility would be better suited to be somewhere else, where it is permitted by right. If the application is conditioned, so the facility cannot be expanded upon, then Secretary Hitchcock thinks he would be okay with that, but his initial thought is that it should not be in a residential zone. Commissioner Mcdowall stated that she is leaning to being opposed to this application. She is opposed to the location; this facility should be put in a different location and not in a residential neighborhood, Commissioner Mcdowall stated. Commissioner Bunovsky stated that he, too, is a neighbor, in close proximity. There is a very large stigma associated with this facility that should not be there, he stated, adding that there should be more facilities like this. Commissioner Bunovsky stated that he does not think it is a medical clinic; it is a counseling facility, and he is in favor of it. Chairman Clark stated that a clinic at this location is inappropriate. He stated that he would rather see an extensive list of conditions; there should be a considerable number of restrictions, especially if Dr. Hinkley were to retire, and someone else were to take over the facility. Further discussion centered on possible conditions to the application, the meaning and use of the word clinic, and whether the town attorney should be consulted for a legal opinion, before the Planning and Zoning Commission votes on the application. Director of Planning and Economic Development David Anderson stated that he would agree the town attorney should be asked for a legal opinion, and there should be a draft of stipulations to consider, but this requires a thoughtful process. Chairman Clark proposed that a vote on the application be tabled until the June 18, 2020 meeting, in order to solicit information from the town attorney.

**Commissioner Burland made the motion to table the vote on the application until the June 18, 2020 Planning and Zoning Commission meeting; it was seconded by Commissioner Bunovsky and unanimously approved.**

Vote to table the vote on the application until June 18, 2020 passed, 9-0-0.

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

OPPOSED: None.

ABSTAINED: None.

**Approval of Minutes:** Planning Meeting, May 7, 2020 ~ Planning Meeting, May 21, 2020

Secretary Hitchcock stated that he did not have the May 21, 2020 minutes, only the May 7, 2020 minutes.

**Commissioner Mathers made the motion to approve the May 7, 2020 minutes as submitted;**

*Page 5. Madison Planning and Zoning Commission, Planning Meeting, June 4, 2020*

**it was seconded by Vice Chairman Matteson and unanimously approved.**

Vote to approve the May 7, 2020 minutes passed, 9-0-0.

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

OPPOSED: None.

ABSTAINED: None.

**Remarks: Commission Chair** ~ Chairman Clark thanked everyone for their hard work.

**Town Planner** ~ No report.

### **Adjournment**

**Commissioner Bunovsky made the motion to adjourn at 9:22 p.m.; it was seconded by Secretary Hitchcock and unanimously approved.**

Vote to adjourn at 9:22 p.m. passed, 9-0-0.

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

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,  
Marlene H. Kennedy, clerk