

Subject to Approval

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
Oct. 12, 2021**

The Regular Meeting of the Madison Zoning Board of Appeals was conducted Tuesday, Oct. 12, 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

Commissioners William Piggott, Richard Gilbert, Jason Brown, and Dennis Crowe.

MEMBERS ABSENT

Chairman Ned Moore.

ALTERNATES PRESENT

Jennifer Gordon and Ernest Lacore.

OTHERS PRESENT

Zoning Enforcement Officer John De Laura; Maria Pettola, land use staff.

Commissioner Jason Brown made the motion that Commissioner William Piggott be acting chairman, in the absence of Chairman Ned Moore, and Alternate Commissioner Jennifer Gordon seconded the motion, which was unanimously accepted. Acting Chairman William Piggott seated Alternate Commissioner Jennifer Gordon for absent Chairman Ned Moore, when he called the public hearing and regular meeting of the Madison Zoning Board of Appeals to order at approximately 7 p.m. Acting Chairman Piggott 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.

8251. 4 Pheasant Drive. Map 16, Lot 12. R-3 District. Owners/Applicants: Gail and Timothy Lee. Request to vary Section 3.6(d) of the Madison Zoning Regulations to permit a side yard of 6ft where 15ft is required to allow the installation of two air conditioning units. POSTPONED FROM SEPTEMBER 13, 2021.

Owner and Applicant Timothy Lee stated that Pheasant Drive is a small, private road with five to six houses on it; Pheasant Drive is off of Madison Avenue. The Lees' house was built in the 1950s as a ranch, and in 2004 to 2005 the previous owner added a second and third floor to the structure, retaining the original footprint of the building, in the process, according to Mr. Lee. Plans are to place two air conditioning condensers, each about 33" by 35" in size, on the southern side of the house. A variance is needed to permit a side yard of six feet where 15 feet is required, to allow the two air conditioning units to be installed. Three letters in support of the application, from neighbors, were submitted into the record from the following addresses: 12 Pheasant Drive, 20 Pheasant Drive and 33 Madison Avenue. All of the wiring and plumbing has been installed—the previous owners just never installed the two air conditioning units, according

to Mr. Lee. The units cannot be placed anywhere else on the property without requesting a variance; in addition, they cannot be installed at the back of the house, due to the installation of a new septic system in the back yard. Gail Lee stated that the two units will be placed on a concrete slab and in accordance with town and zoning requirements. Commissioner Richard Gilbert asked if the plans could be shared, and they were shared. If placed where being requested, the adjacent property owner's house would be about 30 to 35 feet away from the air conditioning units, and those two units will be one foot away from the Lees' house, according to Mr. Lee. The southern side of the house was chosen, because the house was pre-wired and pre-piped for air conditioning, and this is where those utilities for the air conditioning units exist. The entire house was pre-wired and pre-piped, when the Lees bought the house, Mrs. Lee stated. Within a couple of months of purchasing the house, the septic system failed, and a brand new system had to be installed; the new septic system takes up the back yard, so the air conditioning units cannot be placed where the new septic system exists, according to Mr. Lee. If the northern side were selected to install the two units, a variance would still be required, and the house would have to be re-wired and re-piped for the air conditioning, according to Mr. Lee. The air conditioning installers stated that it would be a challenge to put the air conditioning condensers on the north side of the house, Mrs. Lee stated. The Zoning Board of Appeals might want to hear from the town health department, regarding distances allowed from septic systems for air conditioning condensers, according to Zoning Enforcement Officer John De Laura. However, through no fault of their own, this circumstance exists; this is not a self-imposed hardship, Mr. De Laura stated—someone else did all the pre-wiring and the pre-conduits for the air conditioning. If the board sees this as an unusual hardship, the board can approve it or deny it, according to Mr. De Laura. Mrs. Lee stated that she does not want to endanger the septic system or not have access to the pipes for the septic system. Acting Chairman Piggott asked whether anyone from the public wanted to speak in favor of or in opposition to the application, and no one did. Commissioner Jason Brown made the motion to close the public portion of the hearing; it was seconded by Commissioner Jennifer Gordon. Acting Chairman Piggott opened the session to deliberations from the Zoning Board of Appeals. Connecticut General Statute 8.86 permits Zoning Boards of Appeals to grant variances for exceptional difficulty, according to Commissioner Brown, who stated that the Lees purchased a home with non conformance in both setbacks, and unfortunately there was the septic system issue in the back yard. Commissioner Brown stated that he understands the Lees' trepidation in installing the air conditioning condensers on the septic system, and the house is already wired and plumbed for these condensers. Commissioner Brown stated that he does not believe it violates the intent of the side yard setbacks, which is to keep a distance from the neighbors. Commissioner Brown stated that he would agree to grant the variance under exceptional difficulty and unusual hardship, and he does not believe that this violates the intent of the town's zoning regulations. Acting Chairman Piggott agreed. Commissioner Gilbert stated that it is a reasonable request, and it is not going against the general theme of zoning. Commissioner Dennis Crowe stated that he does not see anywhere else to put the condensers. Commissioner Gordon stated that she sees no other options for the Lees, and she would be in support of the application. Commissioner Gilbert made the motion to close the public hearing; it was seconded by Commissioner Crowe.

Commissioner Brown made the motion to grant the variance on the basis that literal enforcement of the zoning regulations would result in unusual hardship and exceptional difficulty, under Connecticut General Statute 8.86, and he amended that to also note that the intensification of the non conformance does not conflict with the town's zoning

regulations. Commissioner Crowe seconded the motion, which was unanimously approved.

Vote to grant the variance for 4 Pheasant Drive passed, 5-0-0.

IN FAVOR: Acting Chairman Piggott and Commissioners Brown, Gordon, Gilbert, and Crowe.

OPPOSED: None.

ABSTAINED: None.

8252. 62 New Road. Map 50, Lot 16. R-2 District. Owner/Applicant: Michael Basler; Appeal of ZEO notice for failure to abide to ZBA condition of approval application 8169 granted July 7, 2015. APPROVAL GRANTED TO RECHEDULE TO NOVEMBER 9, 2021.

Approval of Minutes: August 10, 2021, Regular Meeting.

Acting Chairman Piggott made the motion to approve the August 10, 2021 minutes, as submitted; it was seconded by Commissioner Brown and unanimously approved.

Vote to approve the August 10, 2021 minutes passed, 5-0-0.

IN FAVOR: Acting Chairman Piggott and Commissioners Gilbert, Crowe, Brown, and Gordon.

OPPOSED: None.

ABSTAINED: None.

Adjournment

Commissioner Crowe made the motion to adjourn at 7:51 p.m.; it was seconded by Commissioner Brown and unanimously approved.

Vote to adjourn at 7:51 p.m. passed, 5-0-0.

IN FAVOR: Acting Chairman Piggott and Commissioners Gilbert, Crowe, Brown, and Gordon.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy
Clerk