



TOWN OF MADISON
ZONING BOARD OF ADJUSTMENT
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ZBA MINUTES
April 15, 2026

CALL TO ORDER: Mr. Drew Gentile called the meeting to order at 6:00pm and led those in attendance in saying the Pledge of Allegiance.

IN ATTENDANCE:

Drew Gentile – Chair, Sharon Schilling – Vice Chair, Doug McAllister, Richard Ventura, Mark Ohlson

OTHERS PRESENT: Colleen King - Land Use Administrator, Madison TV, Bryant Guerin, Donna Cupka, Michael D'Amato

ELEVATION OF ALTERNATES: Mr. Gentile made a **MOTION** to elevate Mr. Ohlson to a full member of the Board; seconded by Mr. McAllister.

PUBLIC HEARING:

CASE # 26-02 A Variance is requested by Bryant Guerin/ Twin Oaks Realty Trust for property located at 2 Ossipee Lake Road, **Tax Map 263, Lot 004**, from **Article IV, Section 3**, of Zoning Ordinance, to permit the placement of a contractor bay building to be used for plumbing, mechanical (HVAC) and other trades.

MEETING NOTICE: Mrs. King reported that tonight's Public Hearing was posted in the Town Hall upper and lower levels, Madison & Silver Lake Post Offices and the Conway Daily Sun. All Abutters were notified by certified mail.

CONFLICT OF INTEREST: This case was previously before the Planning Board, who determined that a Variance would be required and therefore Mr. Ohlson recused himself. The rest of the Board was individually polled for any conflicts of interest: Mr. Gentile - no, Mrs. Schilling - no, Mr. McAllister - no, Mr. Ventura – no.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Ventura - no, Mr. Gentile - no, Mr. McAllister - no, Mrs. Schilling – no.

SWEARING-IN: Bryant Guerin and Donna Cupka were sworn-in to testify for this hearing.

PRESENTATION: Mr. Guerin purchased this property in September 2025 with the intention of opening a family business. He discovered that there is a real need for the trades and having a location to work out of. His realtor reviewed the property tax card which designated the property as commercial.

He spoke to the Building Inspector, Town Clerk and Town Administrator who confirmed that this lot was commercially zoned. Bob Boyd, the Building Inspector stated that according to the zoning maps, this property would be suited for his plans and that his next step was to get Planning Board approval. During the Planning Board meeting, Chairmen Ohlson, discovered that there is a discrepancy between the town maps and the Madison Zoning Ordinance. This would then require a variance from the Zoning Board as there were many discrepancies in the Town documents.

The Assessing Property Tax Card that was presented at his closing, stated that this lot was commercial and had been taxed as such since 2006. The 2024 Zoning map conflicts with the Master Plan. The southern-most lot ends at a commercial lot. Mr. Guerin stated that it is the Town's responsibility to assure that their documents are consistent and the general public should be able to rely on Town officials.

PUBLIC COMMENT: Mr. Gentile opened the hearing for public comment.

Mrs. Cupka stated that she is a direct abutter that although she is in support of Mr. Guerin's plan, she would request that a condition be put on this application to provide and maintain a buffer or visual screening along her lot line.

Hearing no further comments in favor or opposed to the appeal, Mr. Gentile made a **MOTION** to closed the public portion of the hearing; Mr. McAllister seconded. All Approved.

FINDING OF FACTS: Mr. Gentile led the Board in a review of the Findings of Facts:

1. The Building Inspector and Planning Board rejected the application for a Building Permit and Site Plan Review based on an understanding that Lot 263, Map 004 is zoned Rural Residential. A plumbing business, which would be considered to be either a property management service or light industry, is not a permitted use in Madison's Rural Residential district.
2. The rejections are based on the Madison Zoning Ordinance 3.2 which defines the southern limit of the affected commercial district as the centerline of Ossipee Lake Road and Ordinance 3.1 which defines rural residential as anything not being designated as in the Commercial, Village or Eidelweiss districts as rural residential.
3. Lot 263, Lot 004 was part of several lots sold together in 2003 by the International Paper Company to the Madison Lumber Mill and later to Hancock Lumber.
4. Other Town records contradict the Ossipee Lake Road border for the commercial district, such as the Madison Tax Card for the property at 263/004/000, which defines its use as commercial/industrial; the Town has taxed the land as commercial property and the Town's Master Plan dated 2010, on page 3 of the Land Use section, describes the commercial zone as including the entire Madison Lumber Mill property.
5. The character of the neighborhood is commercial.
6. Based on the fact that Tamworth has no zoning districts and Ossipee's table 34.5 lists light industry and table 34.2 lists property management services as permitted uses in the abutting property, Lot 263/004 would be an island restricted to residential use in a neighborhood where light industry is permitted and exists.
7. The Madison Zoning Ordinance 3.2 indicates the boundaries of the affected commercial zone in the following manner: a parcel bounded on the south by the center line of Ossipee Lake Road, on the west by the Tamworth town line, on the north by the center line of NH RT41, on the west by Map 262, Lot 003 and a line 100 feet westerly of the center line of West Branch Brook.
8. Map 262 Lot 003 no longer exists. There are two west boundaries and no east boundary and the southern limit at the center line of Ossipee Lake Road contradicts the documents cited above.

BOARD DELIBERATION: Mr. Gentile led a discussion of the 5 criteria for a Variance.

- 1&2. The variance will not be contrary to the public interest and the spirit of the ordinance will be observed. The neighborhood is commercial and the lot was historically commercial. The abutting lots in Tamworth and Ossipee have the type of light industry which is being applied for as a permitted use, so the application for the variance does not introduce a significantly different use foreign to the neighborhood.
3. Substantial justice will be done because there is potential for significant financial loss to the owner due to changes in the business plan when the neighborhood is already used for commercial purposes. There is no identifiable gain to the public by requiring the property to be used residentially when the nearby properties are already in commercial use.
4. The value of the surrounding properties is not diminished because generally speaking, when the property is developed appropriately, property values go up. The neighboring properties are already being used for light industry and commercial purposes by the Madison Lumber Mill and Hancock Lumber so that any devaluation or enhancement in property due to commercial use would have already taken place.
5. Literal enforcement would result in unnecessary hardship because due to the unique characteristic of the property. It has been used as commercial property and would be unique to the neighborhood if it were not continued to be permitted to be used for commercially. The owner would be forced to make a significant change in his business plan which had been openly discussed with the town and supported in town documentation, though discrepancies were discovered in the assignment of zoning. The proposed use is a reasonable one because it fits the general characteristic of the neighborhood. I would provide a base for needed property maintenance support and has historically been used as commercial property.

Mrs. Schilling stated that proposed use does not create a standard that doesn't already exist.

Mr. McAllister explained that many commercial lots abut some residential lots and for many years, the town has collected taxes at a commercial rate.

MOTION/VOTE:

Mrs. Schilling made a **MOTION**, seconded by Mr. Ventura, to approve this application for a Variance requested by Bryant Guerin/ Twin Oaks Realty Trust for property located at 2 Ossipee Lake Road, **Tax Map 263, Lot 004**, from **Article IV, Section 3**, of Zoning Ordinance, to permit the placement of a contractor bay building to be used for plumbing, mechanical (HVAC) and other trades, with the following condition:

- 1). That the property owner provides and maintains appropriate visual screening/ buffer from the abutting residential lots in Ossipee

MOTION APPROVED by a vote of 4 to 0.

Mr. Gentile read the provisions of the 30-day appeal period.

CASE # 26-03 Variance for Michael D’Amato, Agent for William Diskin, Patricia Terwilliger, Joan Daigle and Mary D’Amato, for property located at 1113 East Shore Drive, Tax Map 126, Lot 010, **Article V, Section 3** of the Zoning Ordinance, to permit construction of an 18ft x 42ft addition with a 16ft peak height (vs. existing 13ft) and 4ft expansion to an existing 8ft x 19ft porch within the required 75ft setback from the mean high-water mark of any body of water.

MEETING NOTICE: Mrs. King reported that tonight's Public Hearing was posted in the Town Hall upper and lower levels, Madison & Silver Lake Post Offices and the Conway Daily Sun. All Abutters were notified by certified mail.

CONFLICT OF INTEREST: The Board was individually polled for any conflicts of interest: Mr. Gentile - no, Mrs. Schilling - no, Mr. McAllister - no, Mr. Ventura – no, Mr. Ohlson. Mr. Gentile elevated Mr. Ohlson to a full voting member for this application.

REGIONAL IMPACT: The Board was individually polled on whether this case has regional impact: Mr. Ventura - no, Mr. Gentile - no, Mr. McAllister - no, Mrs. Schilling – no, Mr. Ohlson – no.

WAIVER REQUEST: The applicant requested a waiver to the Certified Plot Plan requirement. Mr. Gentile asked who did the measurements on the new plan. Mr. D’Amato stated that a professional surveyor set the pins a few years ago. Mr. Ventura was not comfortable with no certified plot plan as the 25’ setback needs to be correct. Mr. Gentile confirmed that this property is already an existing non-conforming lot and if a variance is granted, there could be a condition that the 25’ setback be staked before any construction begins.

MOTION was made by Mr. Gentile and seconded by Mr. McAllister to grant the waiver request; Approved 4-1 with Mr. Ohlson denied.

SWEARING-IN: Mr. D’Amato was sworn-in to testify for this hearing.

PRESENTATION: Mr. D’Amato explained that the plan had been developed for a lot line adjustment and the boundary pins had been set a few years ago. The 2-part proposal is to construct an 18ft x 42ft addition with a 16ft peak height (vs. existing 13ft). The roof height will be less than 36’. The second part is for a 4ft expansion to an existing 8ft x 19ft porch within the required 75ft setback from the mean high-water mark of any body of water. It is the smallest intrusion possible and limited by the current septic placement. There will not be any extra bedrooms added. Mr. Gentile reiterated that the proposed addition cannot be moved due to the existing internal house design and structure as well as the septic system. Mr. Amato agreed and also stated that the new septic system will be a pump-up system. Mrs. Schilling confirmed that the roof height will remain conforming.

PUBLIC COMMENT: Mr. Gentile opened the hearing for public comment. Hearing none, a **MOTION** was made by Mr. McAllister and seconded by Mrs. Schilling to close the public portion of the meeting. All approved.

BOARD DELIBERATION:
The Board’s deliberation is as follows:

FINDINGS OF FACTS:

1. The house was built in 1960 and is protected as a pre-existing non-conforming structure in Article 1.3 of the Zoning Ordinance.
2. The existing roof line height is conforming as is the proposed roof line.
3. No portion of the proposed construction makes the building more non-conforming
4. The porch extension does not encroach on the 50ft State setback to the waterline but does encroach the Town's 75ft setback requirement.
5. The addition of the home does not encroach the 50ft State setback to the waterline but does encroach the Town's 75ft setback requirement.
6. There is risk that the 25ft setback requirement from the West property line could be encroached since the addition to the house is to be just at the 25ft setback at its closest point to the property line.

FIVE CONDITIONS FOR A VARIANCE:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance will be observed as the variance does not alter the essential character of the neighborhood, or threaten the health, safety or general welfare of the public.
3. Substantial justice will be done because the additions will enhance the ability of the owners to use the house without becoming more non-conforming
4. The value of the surrounding properties is not diminished because the improvements to the structures are consistent with the neighborhood and enhance property values.
5. Literal enforcement would result in unnecessary hardship because due to the topographical features of the property, which include an incline, there is no feasible alternative expansion option. The proposed use is a reasonable one because it will enhance the ability of the property owner to enjoy their vacation home without significant impact on the surrounding properties.
6. Construction may not commence until the **West** property line and the extent of the proposed addition are staked out and verified to be more than 25 feet from the West boundary line.

MOTION / VOTE;

Mrs. Schilling made a **MOTION**, seconded by Mr. Ventura, to approve this application for a Variance requested by Michael D'Amato, Agent for William Diskin, Patricia Terwilliger, Joan Daigle and Mary D'Amato, for property located at 1113 East Shore Drive, **Tax Map 126, Lot 010, Article V, Section 3** of the Zoning Ordinance, to permit construction of an 18ft x 42ft addition with a 16ft peak height (vs. existing 13ft) and 4ft expansion to an existing 8ft x 19ft porch within the required 75ft setback from the mean high-water mark of any body of water, with the following condition:

That Construction may not commence until the **West** property line and the extent of the proposed addition are staked out and verified to be more than 25 feet from the West boundary line.

Motion approved.

ADMINISTRATION: February Meeting Minutes will be reviewed and approved in May.

ELECTION OF OFFICERS: Mr. McAllister made a **MOTION** to nominate Mr. Gentile as Chair; Mrs. Schilling seconded. All Approved.

Mr. McAllister made a **MOTION** to elect Mrs. Schilling as Vice-Chair; Mr. Ohlson seconded. All Approved.

ADJOURNMENT:

Mr. Gentile made a **MOTION** to adjourn the meeting; Mrs. Schilling seconded. All approved.

The meeting adjourned at 8:39pm.

Respectfully Submitted,
Colleen King
Land Use Administrator