

**Town of Brighton**  
**Development Review Board**  
**Minutes of Hearing Held July 27,2020**

**Re: Robert S. Masone**

Application No.02-20

A public hearing pursuant to Section 509(Variances) as it relates to Section 210(3)Lake District, of the Town of Brighton Zoning Bylaws was held July 27, 2020 on the above entitled application for a New Construction as filed by Robert S. Masone. The proposed construction is of a log cabin at 21 Birch St. St., Island Pond, Vermont.

Due notice of said hearing was provided to the following adjacent property owners:

Brighton Community Forum  
Robert & Sharon Dexter  
David Haberfield  
Danny Dittner  
Robert, Alan & Burton Barne

Notices were mailed by Certified Return Receipt on July 10, 2020.

Public Notice was posted in three locations in town, namely, the Town Clerk's Office, and the bulletin boards outside the Island Pond Post Office and the Railroad Depot Building. It was also published in the Caledonian Record.

A site visit was held at subject property on July 27, 2020 at 3:00 p.m., with board members Pete Pederson, Mike Clarke, Alan Magoon, Stacey Roese, Alan Wing and Margaret Muraca (Clerk). Robert S. Masone, the applicant, participated via telephone(speaker). Adjacent property owners in attendance were; Danny Dittner, David Dittner and Gerald Dobrynski (representing David Haberfield).

At the site it was noted that the trailer(400 sq ft) that was on the existing site had been removed and Mr. Masone confirmed his desire to construct a 26 by 28 ft (728 sq ft log cabin, with a 320 sq ft second floor). Many questions arose within the group present, regarding the property lines and the determination of accurate setbacks. It was unclear where the exact property lines were and there was no submission of a surveyed map or deed that might show the dimensions. The

submitted property sketch indicated a 55 ft property line on Birch St. When measured it appeared to be less than 50 ft.

The public hearing was called to order at 3:30 p.m. by Pete Pederson, Chair, with all the above named board members present. Robert S. Masone (applicant) again participated via telephone. The adjoining property owners, Danny Dittner, David Dittner and Gerald Dobrynski (representing David Haberfield) were present.

The chair read the warning that was publicly posted.

It was noted that the application was dated January 23, 2020 and referred to this Board on March 16, 2020, by the Zoning Administrator for a site plan review. Due to the Covid-19 pandemic public health restrictions, the hearing was delayed to assure the safety of participants.

Robert S. Masone (applicant) was sworn in by Pete Pederson. The adjoining property owners in attendance were also sworn in by the chair ( Danny Dittner, David Dittner and Gerald Dobrynski)

It was noted that there were no Public in attendance.

The group further discussed their concerns surrounding the request to build the proposed log cabin.

- \_ The minimum Lot size in the Lake district is 20,000 sq ft. This property is approx. 5667sq ft (.13 acres)
- \_ The minimum Lot Width for the district is 120 ft. A measurement taken today was under 50 ft.
- \_ Minimum setbacks are Front 30 ft, Side 30 ft, Rear 30 ft. It was not possible to determine the accurate existing setbacks without a survey map and/or property deed with the exact property dimensions.

The neighbors expressed their concerns regarding the erection of a house after many years with a trailer on the property. Additionally they are concerned that with lack of accurate property lines a fair decision cannot be made.

At 3:50 pm the Development Review Board adjourned the Public Hearing and went into a Deliberative Session. It was immediately determined that a variance for this proposal could not be granted without an accurate survey map. Board members agreed that Article 4: Nonconformities would best be applied to this situation.

### **S401 Nonconforming Uses**

- (1) Any lawful use of any structure or land existing at the time of the enactment of this bylaw that does not conform with the provision of this bylaw, may be continued, provided the following conditions are met:
  - A. The nonconforming use shall not be changed to another nonconforming use.
  - B. The nonconforming use may be continued, provided that such use shall not be enlarged or extended, except in accordance with (5).
- (2) No nonconforming use may be resumed if such use has been abandoned for a period

of one year or more. A nonconforming use shall be considered abandoned when either of the following conditions exist:

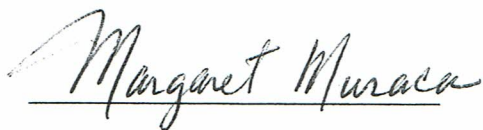
- A. when it is replaced by a conforming use.
  - B. when the use has been discontinued for one year, unless the structure devoted to the nonconforming use has been damaged.
- (3) A structure that is devoted to a nonconforming use shall not be restored for other than a conforming use after damage from any cause, unless the restoration of such structure is substantially commenced within one year.
- (4) Nothing in this section shall be construed to prohibit normal maintenance and repair of a structure devoted to a nonconforming use.
- (5) The Development Review Board may, after public notice and hearing, allow the expansion of any nonconforming use by up to 20 percent greater than its existing size, provided it does not adversely affect the character of the surrounding area.
- (6) Any use of any structure or land that does not conform to this bylaw because it was improperly permitted shall be treated as a nonconforming use.

The board members discussed the application of Section 401 Nonconforming uses to this situation. The former trailer was 400 sq ft, and therefore an additional 20 percent would grant a total of 480 sq ft. A new structure of this size should be placed in the same footprint. A new structure of up to 480 ft may be placed on the center point of the trailer pad and should not be turned. ( Face the same direction as the previous trailer). If the applicant desires a structure greater than this , a survey must be completed and a new application submitted.

The board voted unanimously to approve this recommendation to grant the applicant the ability to construct a building up to 480 sq ft, on the center point of the trailer pad facing in the same direction

The meeting was adjourned at 4:15 p.m.

Dated at Brighton(Island Pond), Vermont this 27th day of July 2020.



Margaret Muraca, Clerk  
Development Review Board  
Town of Brighton

cc: Pete Pederson

Robert S. Masone, Applicant

Adjoining Property Owners: David Dittner, Danny Dittner, David Haberfield

Town of Brighton, Clerks Office

Joel Cope, Town Administrator/Zoning Administrator

## Findings of Facts

The following facts were found at the public hearing held July 27, 2020.

1. The hearing was called to order by the Chair at 3:30 p.m. and it was noted that the site visit was made by the Board Members and others as previously named.
2. The warning was read by the Chair.
3. Robert S. Masone (applicant), was sworn in by Pete Pederson, Chair.  
Also sworn in were Danny Dittner, David Dittner and Gerald Dobryski (adjoining property owners.)  
The Chair also asked Board Members if they had any questions or concerns.
4. The requirements found in Sec 509 of the Town of Brighton Zoning Bylaws relative to the proposed dwelling and necessary variance were discussed. The board recommended the use of Section 401 Nonconforming uses for this situation.  
The Development Review Board may render a decision in favor of the appellant only if all of the delineated facts are found and the findings are specified in its written decision.  
The Board noted that more information (a survey map) would be necessary to consider granting a variance.

The Board determined that the application submitted did not contain the information necessary to grant a variance. Additional property information is necessary to consider this proposal again. The building of a structure of up to 480 sq ft is permitted.

## Conclusion of the Law

The following conclusions were determined from the public hearing held on July 27, 2020:

Per the town's Zoning map the subject property is located in the "Lake" District in Sec. 210(3) of the Zoning Bylaws.

Further, Sec. 509 of the Zoning Bylaws provided the safeguards the Board is to take into consideration when reviewing site plans and the Board finds that all issues specified therein have not been adequately addressed by the applicant. Sec 401 of the Zoning Bylaws has been applied.

### Deliberative Session

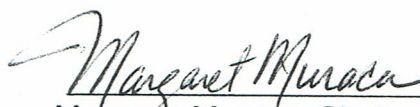
The deliberative session followed the public meeting with the same board members in attendance.

Following discussion of the applicants' request for a Site Plan Review/Variance the following motion was made :

Pete Pederson made the motion to utilize Section 401 (5) allowing expansion of any nonconforming use by up to 20 percent, allowing a structure up to 480 sq ft to be placed on the existing footprint, facing the same direction. Margaret Muraca seconded the motion. The Board voted unanimously to approve the motion.

The deliberative session closed at 4:15 p.m.

Dated at Brighton(Island Pond), Vermont this 27th day of July 2020..



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Margaret Muraca, Clerk  
Development Review Board  
Town of Brighton

cc: Robert S. Masone, Applicant  
Pete Pederson, Chair DRB  
Town of Brighton, Clerks Office  
Joel Cope, Town Administrator, ZA

**Town of Brighton  
Development Review Board**

RE: Robert S. Masone  
11 Hickory Drive  
Greenwich, CT 06831  
Application # 02-20

**Decision**

A public hearing pursuant to Section 509 of the Town of Brighton Zoning Bylaws was held July 27, 2020 on the above entitled application for a Site Plan Review/Zoning permit as filed by Robert S. Masone; for the construction of a log cabin at a residential property at 21 Birch St., Island Pond, Vermont.

Notice of said hearing was provided to the following adjacent property owners identified by the applicant:

Brighton Community Forum  
Robert & Sharon Dexter  
David Haberfield  
Danny Dittner  
Robert, Alan & Burton Barnes

Notices were mailed by Certified Return Receipt July 10, 2020. Public notice of said hearing was posted in three locations in town, namely the Town Clerk's Office, bulletin boards outside the Island Pond Post Office and the Railroad Depot Building; and published in the Caledonian Record.

A site visit on July 27, 2020 preceded the public hearing. Board members who visited the site were Pete Pederson, Mike Clarke, Alan Magoon, Stacey Roese, Alan Wing and Margaret Muraca(clerk). Also participating was Robert S. Masone (applicant). Adjoining property owners present were Danny Dittner, David Dittner and Gerald Dobrynski (representing David Haberfield)

The public hearing followed the site visit with the above named board members in attendance, as well as Robert S. Masone, Danny Dittner, David Dittner and Gerald Dobrynski.. In a unanimous vote the Development Review Board Members:

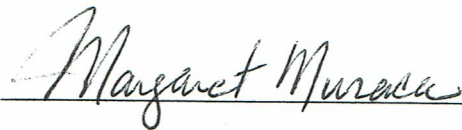
Pete Pederson  
Alan Magoon  
Stacey Roese  
Mike Clarke  
Alan Wing  
Margaret Muraca

voted to DISAPPROVE the application of site plan/variance concerning the property located at 21 Birch St., Island Pond, Vermont and to approve the construction of a building with a maximum sq footage of 480 ft on the existing footprint.

### Appeal Rights

**If you should disagree with the Board's Decision, you may appeal to the Environmental Court. Such appeal must be made within thirty(30) days of the date of the decision. Failure to appeal within this thirty (30) day period will result in the loss of your appeal rights and this Decision shall be considered final.**

**Dated at Brighton (Island Pond) Vermont this 27th day of July 2020.**



Margaret Muraca, Clerk  
Development Review Board

cc: Robert S. Masone, Applicant  
Danny Dittner, David Dittner, David Haberfield -Adjoining Property Owners  
Pete Pederson, Chair, DRB  
Town of Brighton, Clerks Office  
Joel Cope, Town Administrator