

**TOWN OF ALTON PLANNING BOARD
MINUTES 2018
FEBRUARY 20, 2018**

APPROVED

Members Present:

Peter Bolster, Chairman
Roger Sample, Vice-Chairman
Russ Wilder, Clerk
Dave Collier, Member
Virgil MacDonald, Selectmen's Rep.

Others Present:

Nic Strong, Town Planner
Jessica A. Call, Recording Secretary

CALL TO ORDER

Peter Bolster called the meeting to order at 5:59 p.m.

APPROVAL OF AGENDA

Peter Bolster asked if there were any changes to the agenda since it was posted; Nic Strong stated that there were two items under #4., a. and d.

**Dave Collier moved to accept the February 20, 2018, agenda, as amended.
Russ Wilder seconded the motion, and it PASSED unanimously.**

New Applications

| | | |
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| Case # P18-01 Dean M. Clark, LLS/DMC Surveyors, Agent for Richard R. Esson 2017 Trust/Richard R. Esson, and Donald & Beverly Esson | Map 80 Lot 26 & 27-1 | Boundary Line Adjustment Lakeshore Residential (LR) 88 & 96 Big Barndoor Island |
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Present were Dean M. Clark, LLS, agent, Richard R. Esson, and Donald Esson, owners.

The Chairman read the public hearing notice.

Nic Strong shared with the Board that since the Planner Review was prepared, the applicants had submitted the outstanding fees and provided the sample deed.

**Russ Wilder moved to accept the Boundary Line Adjustment application for Case #P18-01, as complete.
Dave Collier seconded the motion, and it PASSED unanimously.**

Dean M. Clark, LLS, stated that the purpose of this Boundary Line Adjustment was to split the two parcels of land equally, which were owned by the same parties. The applicants needed a well release, but they needed to

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obtain a deed first before they could submit everything to the Belknap County Registry of Deeds. With the lot line adjustment, it would leave the well on Lot 27-1 within five feet of Lot 26.

Dean M. Clark, LLS, explained that there was a requirement to place the septic system for Lot 27-1 onto Lot 27 (Lot B), which was put into place by the Barndoor Island Association in 1985. The septic had been permitted by DES, and it was currently in place and up and running. He also noted that he had permits for all of the docks on both properties, as well as the walkways. Russ Wilder asked if the septic field on Lot 26 was existing; Dean M. Clark, LLS, stated, yes.

Russ Wilder noted that the land being transferred to Lot 26 was mostly wetlands; Dean M. Clark, LLS, agreed. Dean M. Clark, LLS, inquired about the wetland setbacks, because the house on Lot 26 predated the current setbacks; therefore, the current 25' setback would now put the house in non-conformity. He noted that if the Board wanted him to add the wetland setbacks as a requirement of approval, he would.

Virgil MacDonald asked if the applicants had to post wetland plaques. Nic Strong checked the Subdivision Regulations and she noted that if the applicants were performing any construction or development, they would be required to post the plaques.

Russ Wilder noted that Lot 26 was going to get more shoreline; Dean M. Clark, LLS, stated there was going to be 141' more of shoreline. Russ Wilder brought up the two 6' x 46' seasonal docks that were attached to Lot 27-1, and noted that one of those docks was going to end up on Lot 26.

Dave Collier asked Dean M. Clark, LLS, to label the line to be vacated and the new lot line on the final plan. Dean M. Clark, LLS, noted that he would do so and that he was adding a legend to the plan.

Russ Wilder shared that he saw this case on the Conservation Commission agenda for comment. Roger Sample asked if that usually happened before the case was heard before the Planning Board. Nic Strong stated, yes; every time an application came in, the Planning Department sent out a copy of the proposals to various departments for comment and sometimes if meeting times get changed, or meetings for the month have already been held, schedules may conflict. If there were comments from the Conservation Commission that needed to be addressed, they would be dealt with at that time. It was not a legal requirement to have the comments back before the Planning Board acted on an application.

After due hearing, Virgil MacDonald moved to approve Case #P18-01 for Richard R. Esson, Trustee, Richard R. Esson 2017 Trust, and Donald and Beverly Esson, for the above cited Lot Line Adjustment of Map 80 Lots 26 & 27-1, on Big Barndoor Island, with the following conditions:

CONDITIONS PRECEDENT

The following conditions precedent must be satisfied prior to the Planning Board Chair signing the plans.

- 1. Submission of revised plans in the number required by the Subdivision Regulations and that include all of the checklist corrections, and any corrections as noted at this hearing.**

- 2. Addition of a note to the lot line adjustment plan prior to plan signing by the Planning Board Chair stating that Best Management Practices shall be utilized during any timber cutting on site.**
- 3. Addition of a note to the lot line adjustment plan prior to plan signing "This subdivision plan is subject to the Conditions of Approval itemized in the February 20, 2018, Notice of Decision recorded in the Belknap County Registry of Deeds and on file at the Town of Alton Planning Department.".**
- 4. Monuments shall be set on the final plat or a separate certification of bounds set shall be required to be recorded at the Belknap County Registry of Deeds at the applicant's expense.**
- 5. Submission of Notice of Decision fees in the amount of \$3.00.**

SUBSEQUENT CONDITIONS

The following subsequent conditions shall be met during construction and on an on-going basis:

- 1. The applicants shall comply with all of the Town of Alton's Subdivision Regulations.**
- 2. Approval of the lot line adjustment by the Planning Board constitutes recognition that the lot configurations are in conformance with local land use regulations. To complete the lot line adjustment, deeds must be transferred and recorded and this is the applicant's responsibility.**
- 3. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions, or changes to the plans are not authorized and require additional Planning Board approval.**
- 4. A lot line adjustment which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.**

Unless otherwise approved by the Board, the applicant shall have one (1) year from the date of the meeting at which the application is approved with conditions to complete any conditions precedent that are required prior to signing and recording the subdivision plat. Failure to complete any conditions within the one (1) year timeframe shall invalidate the Board's approval, unless an extension is approved by the Board under Section IX, A. 2. of the Town of Alton Subdivision Regulations.

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Russ Wilder seconded the motion, and it PASSED unanimously.

Other Business:

1. Old Business:

2018 Petitioned Warrant Article by the Planning Board

Peter Bolster stated that at the deliberative session there were a couple of citizens who tried to change the amount of the warrant article to \$1.00, and after a lot of discussion, the vote was overwhelmingly opposed to the suggested change. Peter Bolster stated that the Budget Committee had agreed to revote after the deliberative session, whether to recommend the petition or not, but they did not. Virgil MacDonald stated that they did not vote on anything, and that they would have to hold a special meeting to vote on some changes to the budget because they needed to vote before the townspeople voted in March; otherwise, the budget that was being presented would be void. Roger Sample stated when the Budget Committee originally voted, he thought the process was skewed because they voted first and then asked the public for comment.

Roger Sample mentioned that the town could be saving money if they bought into the cost-sharing program with Lakes Region Planning Commission (LRPC) for oil and electricity. The Town would save about \$15,000, so there would be no problem with coming up for the cost to become a member. Virgil MacDonald pointed out that this would only work if Barnstead agreed to this program because they shared the high school with Alton. Peter Bolster stated that he talked to Jeff Hayes, Director, LRPC, about a week or so ago, and he shared some other things they were in the process of looking at, like propane, oil, and solid waste. Solid waste might be a better option if the surrounding towns went in together, they might get a better bid from the local trash companies. Peter Bolster stated that school buses were another issue with only having one company; therefore, there was no competitive bidding.

Peter Bolster thought that there would probably be letters submitted to the editors of newspapers opposing the warrant article. He wanted to know if the Board should submit their own letter to the editor that explained to the public the exact reasons why the Town should pay for the dues to the LRPC. Russ Wilder mentioned that the letter should be submitted to run during the week of March 5th through the 9th. He thought that the letter should include that this was not subjected to a conspiracy theory, and should include how often we have used LRPC and the costs involved. Russ Wilder and Peter Bolster volunteered to write the letter.

Dave Collier moved to allow Peter Bolster and Russ Wilder to write a letter to the newspaper, and gave permission to send such letter to the newspaper.

Russ Wilder seconded the motion, and it PASSED unanimously.

Peter Bolster took a poll of the Board to see if they were in favor of signing the letter for the newspaper.

Virgil MacDonald, yes

Dave Collier, yes

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Roger Sample, yes
Russ Wilder, yes
Peter Bolster, yes.

Peter Bolster asked Nic Strong for contact information for Tom Hoopes and Scott Williams so he could contact them and get their vote on whether they wanted to add their names to the letter.

2. **New Business:**
3. **Approval of Minutes:** January 16, 2018, Planning Board Meeting

**Russ Wilder moved to approve the minutes of January 16, 2018, as presented.
Roger Sample seconded the motion, and it PASSED unanimously.**

4. **Correspondence for the Board's review/discussion/action:**
 - a. Email correspondence between Nic Strong, Jim Sessler, Esq., Town Counsel, and Thomas W. Varney, P.E., agent for Green Oak Realty Development, LLC/Coffin Brook Excavation Pit, Keith Babb, owner. Letter dated February 8, 2018, from Thomas W. Varney, P.E., to Nic Strong re: the proposed expansion of the pit.

Russ Wilder mentioned that there was a discussion at the last Planning Board meeting regarding digging their pit to 60' deep. Nic Strong informed Thomas W. Varney, P.E., on behalf of Jim Sessler, Esq., Town Counsel, that due to the change in the scope of the application that a Special Exception may be required.

Russ Wilder mentioned that in a letter from Thomas W. Varney, P.E., he stated he would hire a hydrogeological consultant to determine what the impact would be by creating an excavation that deep on the water quality and quantity in the area. Russ Wilder thought that the Town should be the one to choose the consultant. Peter Bolster thought that Keith Babb could hire whom he wanted to, and then the Town Engineer would review it. Nic Strong stated that the two Town Engineers did not have the capacity to review such a report and did not have those professionals on staff. It was cheaper for the applicant if the Town were to find a hydrogeologist for them to use, because then there would be no need to have the report reviewed. Nic Strong stated that Kevin Leonard, P.E., from Northpoint Engineering, LLC, was already looking for a hydrogeologist. Peter Bolster asked if the State got involved; Nic Strong stated that the State did not get involved, but Keith Babb needed to amend his AoT permit.

Russ Wilder stated that it was already known to the Board that the excavation had drained the wetland on the neighbor's property where the Conservation Commission held a conservation easement and he wondered how much more damage would happen if they excavated down to 60'. Virgil MacDonald asked that if it was conservation land, was the Planning Board keeping an eye on it. Russ Wilder stated that the excavation operation was reported to the State because the easement was through the Land Conservation Investment Program, and in the annual monitoring report, the damage to the wetland had to be disclosed. He stated that

there were pieces of blasted rock and other materials that landed on that property due to the blasting. Virgil MacDonald thought that the Board should send John Dever, III, Code Official, over to the property to have Keith Babb clean up the debris. Russ Wilder stated that this discussion took place at the first meeting when Keith Babb was before the Board to present his application.

Nic Strong brought up the possible need for a new Special Exception. She had asked Jim Sessler, Esq., if they needed a new one, because the original proposal was to continue on the same elevation as the original Special Exception approval years back, but now they were proposing to go 60' deeper. Jim Sessler, Esq., thought that if it was a significant change compared to the previously approved project, then this proposal needed a new Special Exception.

Virgil MacDonald wanted to know if the Board had the authority to put a hold on the application and require Keith Babb to clean up the blasting debris from the adjoining property that was discussed at the last meeting. Roger Sample stated that John Dever, III, Code Official was informed of this. Nic Strong pointed out that the abutters have not been asked if they approved or disapproved of the excavation site being so close to the boundary line, because if they were in agreement, the excavation could be 10' from the boundary line, if not in agreement, the excavation needed to be 50' from the boundary line. The problem with the excavation was they excavated right up to the boundary line, leaving no buffer in its place.

Peter Bolster asked the Board if they were going to be the ones to find a hydrogeologist. The Board agreed they should be the ones to find someone. He asked what the State would think of this proposal. Russ Wilder stated that the State would require a new AoT permit if he were to dig an additional 60', and he thought that the State would also have something to say about the effect on the groundwater.

Russ Wilder moved to have the Town Engineer make a recommendation for a hydrogeologist that would be acceptable to the Town and the applicant. Russ Wilder also moved to require a new Special Exception from the ZBA because the excavation of an additional 60' was a significant change.

Virgil MacDonald seconded the motion, and it PASSED unanimously.

5. Correspondence for the Board's information:

- a. Letter dated January 18, 2018, from the Alton Board of Selectmen to Mr. Rich Ollari, Sedlari Construction, LLC, in regards to the process of accepting Sedlari Way.

Nic Strong mentioned that the applicants have started to move forward on the road acceptance procedure with the Selectmen.

- b. Letter dated January 24, 2018, from John Dever, III, Code Official, to the American Legion in regards to a site plan requirement for a Commercial Function Facility.

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Peter Bolster stated that John Dever, III, Code Official, sent a letter to the Legion asking them to get in touch with him to get the process in place to be operating as a commercial function facility.

Virgil MacDonald thought that what the Legion did for the town with the parade and scholarships, they bought the building as a commercial facility, they filled in out back so they had a place to put snow when they plowed and posted “No Parking” signs, that the Town was “beating a dead horse” because they have done a lot for the town by keeping this going. He was upset because at first the Town stated that the Legion was using the land for parking and told them they had to come in for a site plan review, and now the Town wanted to make the Legion a commercial function facility when they had been doing it for over 30 years there. Peter Bolster noted that the Legion had not been there for 30 years; Virgil MacDonald stated that the commercial facility use went back as far as Edgewood’s, Barrett’s, White’s, and everybody else that had owned it. Peter Bolster thought that the use seemed to be the same.

Peter Bolster stated that the imminent situation was, if they were going to develop parking out back that was where the Planning Board needed to authorize some kind of approval. Virgil MacDonald stated that out back was filled in and there were “No Parking” signs there and the Legion had obtained permits from the State; when they changed the parking area with the new building beside it from Blake’s, it took over the snow removal area, they now needed to push it out back around the septic system. Peter Bolster asked if the Legion was planning on adding parking; Virgil MacDonald stated, no, they were leaving it as it was.

Russ Wilder mentioned that the Legion never had site plan approval and that was the problem. Virgil MacDonald stated that they did, they went through the State for the permits and they came in to talk to John Dever, III, and John Dever, III, told the Legion that they were all set over there. Russ Wilder brought up the January 24, 2018, letter from John Dever, III, addressed to the Legion that they needed to file a site plan. Virgil MacDonald stated it was because the Town had asked the Legion to get a commercial facility permit, and that the Town stated the Legion was not currently a commercial function facility. He thought that the building itself had been a commercial function facility since before he was born, and he had stopped in there back in the 1960’s for hotdogs. Russ Wilder thought that John Dever, III, could not just let this issue lie.

Virgil MacDonald thought that the Board should tell John Dever, III, to let this issue lie, because the Legion did a lot for this Town, and there was no reason the Town should keep putting them through this. Virgil MacDonald asked if the Town was going to pull in all the other businesses in town like Bayside and tell them that the Town wanted them to come back in for a site plan review because not we did not like the building. Russ Wilder did not want to undercut the Code Official.

Virgil MacDonald thought that the Town should make Richard D’Angelo move all the rocks in the parking lot, because those were not legal height. He stated that you could not put a 20” rock in a parking lot for a car to hit; they were supposed to be 40” by code. He thought that the Town was picking and choosing what they did. He asked if the Town was going to pull

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in the hardware store owners in town for a site plan review because they had commercial buildings. Russ Wilder mentioned that he was not sure how all of this got started. Virgil MacDonald stated because of the fighting between Richard D'Angelo and the Legion, he thought that the Town was going from one side to the other, and mentioned that the Town kept bringing the Legion back and was keeping it going, instead of letting everything die down over there. Virgil MacDonald stated again that he thought that the Board should tell John Dever, III, to let things go, it was a commercial facility, it was bought that way, and it had been that way his whole life.

Peter Bolster thought that he remembered when the Board had a big discussion on the property on Prospect Mountain Road that brought up the issue of having public, outdoor facilities and functions, and that the agreement was that if you had a business that was already providing services for groups, like the Bayside Hotel on the lake and King Birch, they could just go ahead and have weddings because they were already a commercial facility. He thought that the Legion's building fit into that category, because it had previously been a public meeting facility, restaurant, or the Legion for all these years; therefore, they would just need to notify the Town if they were going to have any outdoor events. Virgil MacDonald stated that they would come before the Selectmen for a permit, then the Selectmen would send the Fire Department over to check and make sure it was suitable and safe, and they also sent the Police Department over to check. Peter Bolster noted that the Police Department also looked for any potential noise issues. Virgil MacDonald stated that they addressed all that and they would come back and report to the Selectmen with any comments. Peter Bolster asked if they needed to do that if they were having something inside, and noted that the Legion added a patio. Virgil MacDonald called it a porch and said the Legion used it for the barbecue, and the money earned went towards the scholarships the Legion gave away to the school. Peter Bolster thought that fit in with the normal usage of the facility, it was an outdoor patio, which was a normal use. Virgil MacDonald stated that the porch sat about 12-15 people.

Nic Strong stated that John Dever, III, had written the Legion a letter and had obvious reasons to believe that the commercial function facility site plan was needed and thought that the Board should ask him to explain why he thought this needed to be addressed before the Board made a decision to turn his decision over. Peter Bolster thought that the Board should invite John Dever, III, to the next Planning Board meeting on March 20, 2018.

Peter Bolster was under the impression that the Legion was going to be adding some new parking; Virgil MacDonald stated, no. Virgil MacDonald shared that the Legion customers were now parking out on the highway because the Town complained about them parking out back, and now they were using that area for snow removal. He stated that there were "No Parking" signs posted out back, so now the Legion was telling their customers to park on the highway. He mentioned that it was not safe, and if anybody got hit by a car, he thought that they would come after the Planning Board. Peter Bolster did not think that they would do that. Virgil MacDonald thought the Town was forcing the Legion to tell their customers to park out on an unsafe highway, and that was currently happening.

Roger Sample noted if the Legion came in with a site plan, they could probably use the area that was designated as snow removal for parking. Virgil MacDonald stated, no, they would have to go back to the State and change their permit, and they already had over \$36,000 invested in it currently with the permitting process. Peter Bolster asked what permitting processes he was referring to. Virgil MacDonald stated they had to go through the State, wetlands, and everything else. Peter Bolster asked if it was fairly recent. Virgil MacDonald stated the expense took place when they filled in the area so they could put the snow back there because there was no other place to push snow, and it could not be pushed out onto the highway. He noted that the Legion was trying to settle the argument with Richard D'Angelo, so they could not push the snow next door out back of the property anymore. Peter Bolster asked if they had spent \$36,000 just to get permission to put snow out back of the Legion. Nic Strong stated that the Legion had to mitigate some wetlands, and they had to obtain a permit for that project.

Roger Sample asked once the snow went away and it was summertime, were people going to park out back where the snow removal area was. Virgil MacDonald stated that there were "No Parking" signs up, but the public was going to park wherever they wanted to park. Peter Bolster thought that people could park there in the summertime when they did not have to store any more snow. Virgil MacDonald told Peter Bolster that it was the Board that did not want people to park there. Nic Strong stated that area was part of the wetland mitigation and it was not for parking. Virgil MacDonald interrupted and stated again that it was because the Board did not want people to park there and that was what brought this whole issue forward because they had parked some cars out there.

Nic Strong stated that there was one file for that property from 2003 for an addition to the building and the scope of what was happening, if it was creating parking issues on the highway and such, might be part of the reason John Dever, III, was investigating and that was why she thought the Board should talk to him. Virgil MacDonald disagreed and stated that Nic Strong was changing the investigation. Nic Strong stated she had nothing to do with it. Virgil MacDonald thought that John Dever, III, must be talking to Nic Strong over this issue and it kept changing. Virgil MacDonald stated that first, the issue started because of the parking out back, and then it changed into site plan review for a commercial function facility.

Russ Wilder thought that John Dever, III, should come to the next meeting to explain what was going on, and to get the facts. Peter Bolster thought that this discussion should be early on the agenda. Virgil MacDonald thought that it should be laid out on the table, and that the Chairman of the Legion should be invited also. Peter Bolster thought the Board should find out from John Dever, III, first what was going on. Virgil MacDonald thought that the Board should find out the other side of the story from the Legion and thought they should both attend the meeting. Russ Wilder suggested inviting John Dever, III, to come in, and since the issue was going to be posted on the agenda, if the Legion wanted to attend they could, it was a public meeting. Peter Bolster stated that the Board was going to talk to John Dever, III, to clarify what the legal issues were that the Town was dealing with. Virgil MacDonald stated

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that according to John Dever, III's, letter, the issue was the commercial function facility, which it had been for well over his lifetime, approximately 56 years.

- c. Letter dated January 25, 2018, from Scott Williams to the Planning Board in regards to his excavation application.

Peter Bolster noted that the letter indicated Scott Williams would be back on March 15, 2018, right before the Planning Board's next meeting.

- d. Planning magazine article dated February 2018, re: Rethinking Parking Minimums.

6. Any Other Business that may come before the Board:

- a. 24th Annual Spring Planning & Zoning Conference, Saturday, April 28, 2018, hosted by the NH Office of Strategic Initiatives. There are two available seats for Planning Board members, if you are interested, please inform the Planning Department.

Peter Bolster was interested in attending.

- b. Nic Strong made an announcement that tonight was Dave Collier's last Planning Board meeting. He had decided not to run again this year. Dave Collier had spent the last 10 years on the Planning Board either as a member or as their Chairman. He would be dearly missed, as he was very knowledgeable in the aspects of planning and engineering. The Board members thanked him for his service and hard work on the Board.

Public Input on Non-Case Specific Local Planning Issues

ADJOURNMENT

At 7:19 p.m., Dave Collier moved to adjourn.

Virgil MacDonald seconded the motion, and it PASSED unanimously.

The meeting adjourned at 7:19 p.m.

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as presented: March 20, 2018