

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
APPROVED MEETING MINUTES
March 2, 2017**

The following members were present:

Paul Monzione, Chairman
Timothy Morgan, Vice-Chairman
Lou LaCourse, Selectmen's Representative (6:15 p.m.)
Paul LaRochelle, Member
Frank Rich, Alternate

Others present:

John Dever, III, Code Enforcement Official
Jessica A. Call, Planning Secretary

I. CALL TO ORDER

Paul Monzione opened the meeting at 6:04 p.m. and informed the Board and the public that Lou LaCourse might be absent, and would like to wait a few minutes for Steve Miller. Paul Monzione informed the Board and Public that he would recuse himself from Case # Z17-02 due to a conflict of interest.

II. APPOINTMENT OF ALTERNATES

Paul Monzione reported that Frank Rich would be appointed as an alternate.

Tim Morgan moved to appoint Frank Rich as an alternate, which would make him a full voting member for the meeting tonight.

Paul LaRochelle seconded. Motion passed by a vote of (4-0-0) (approved-denied-abstained).

III. STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing was to allow anyone concerned with an Appeal to the Zoning Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than the established fact, however, it should support the grounds, which the Board must consider when making a determination. The purpose of the hearing was not to gauge the sentiment of the public or to hear personal reasons why individuals were for or against an appeal, but all facts and opinions based on reasonable assumptions would be considered. In the case of an appeal for a Variance, the Board must determine facts bearing upon the five criteria as set forth in the State's Statutes. For a Special Exception, the Board must ascertain whether each of the standards set forth in the Zoning Ordinance had been or would be met.

IV. APPROVAL OF THE AGENDA

**Tim Morgan moved to approve the agenda as submitted.
Frank Rich seconded. Motion passed by a vote of (5-0-0).**

V. NEW APPLICATIONS

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| Case # Z17-02 Stephan T. Nix, Esq., Agent for Right Field Develop., LLC/Richard D'Angelo | Map 8 Lot 45 | Special Exception Residential/Commercial (RC) 166 Wolfeboro Hgwy./Rte. 28 |
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Paul Monziona recused himself because he was known to both the attorney and the applicant. Vice-Chairman, Tim Morgan, sat in as Chairman.

Present were Stephan T. Nix, Esq., Agent, Richard D'Angelo, Owner, Megan, dog trainer, and Amanda, dog groomer, who were before the Board to request a Special Exception under Article 400 Zoning District Regulations; Section 401 Table of Uses; Other Uses #2 "Kennel". Tim Morgan asked them if they would like to reschedule due to only having a three-member board; they declined.

Tim Morgan asked the Board to look at the application packet for completeness.

**Frank Rich moved to accept the application as complete.
Paul LaRochelle seconded. Motion was passed by a vote of (4-0-0).**

Tim Morgan invited the agent and applicant to the table. Stephan T. Nix, Esq., referred to the site plan, in which the Planning Board had approved as a two-phased site plan. He stated that Phase I was approved for the carwash and Phase II was approved for the Dog Groomer and Hair Salon. Stephan T. Nix, Esq., stated that currently there were four rental units and an owner occupied unit, along with the carwash. Unit 2 was going to be the dog groomer and trainer, and unit 3 would be the hair salon. He explained that off the driveway, customers would be able to turn and park out front near the walkway and park out back. Stephan T. Nix, Esq., went on to explain that there was a newly proposed leach field in front of the building, which was sized for all of the units.

Stephan T. Nix, Esq., then went over the criteria for a Special Exception:

1. The plat was submitted in accordance with the Alton Zoning Ordinance.
2. The three-acre site was appropriate for the proposed use and had undeveloped land out back of the building. The property was zoned commercial and the residences were quite a ways away from the property.
3. There had been no evidence that property values in that area would go down due to the use.
4. There was no valid objection from abutters. John Dever, III, confirmed that he did not receive any concerns from abutters.

Lou LaCourse arrived at 6:15 p.m. Stephan T. Nix, Esq., asked if he should start from the beginning. Tim Morgan asked Lou LaCourse if he had a chance to review the application and if he would like to sit in on the case. Lou LaCourse offered to recuse himself if he was too late. Tim Morgan asked Stephan T. Nix, Esq., how he would like to proceed. Stephan T. Nix, Esq., stated that he would like a fourth member to sit in; Lou LaCourse was ok with hearing the case.

5. As far as any nuisance or hazards were concerned, Stephan T. Nix, Esq., stated he had three concerns: 1.) What was being done to protect the septic system; 2.) How was barking controlled; and 3.) Where would the dogs use the bathroom? Amanda, dog groomer, informed the Board that they would install a hair trap in the drain so it would collect the dog hair and would be cleaned out every night. She also stated there was a designated waste area out back of the building, which had a sign that informed people to pick up after their pet, and there would be bags and a trash barrel available, which would be emptied as needed and brought to the dump. Stephan T. Nix, Esq., stated that Richard D'Angelo agreed to soundproof the interior walls so the barking would not be a problem for the other tenants in the building. Amanda further stated that there would be no activities outside and that she only grooms one dog at a time. Although, there could be a time where she had two dogs present if the first owner was late picking up their dog, but that dog would stay with her in the room, at her feet, while she groomed the second dog. Megan, dog trainer, stated that she had room for a maximum of six dogs and they would be with their owners while they attended a very structured, curriculum-based class, so if there was barking, they would be able to correct it right away.

Paul LaRochelle asked if the grooming and training would be happening in the same room; Amanda stated there were two rooms and a reception area, and she would mainly be grooming during the day, and Megan would be training at night. Paul LaRochelle asked if there would be dogs spending the night; both Amanda and Megan stated not.

Frank Rich asked what they would classify as a "pet." Amanda stated that she would groom cats as well as dogs, but would not groom a cat if she had a dog present; Megan stated that she only trains dogs.

6. There were adequate and appropriate facilities and utilities: the septic system would be designed and constructed with the hair trap, there was adequate parking, the layout was conducive to getting the dogs in and out either through the front or back doors, and the site distance when entering or exiting the driveway was adequate.
7. There was an adequate and safe area for sewage disposal and water supply.
8. The proposed use is consistent with the spirit of the ordinance and the intent of the Master Plan. Dog grooming was listed under kennel and was an allowed use in that zone, if the special criteria was met.

Tim Morgan opened up the floor for public input. No public present. Tim Morgan closed the public input.

Tim Morgan moved the Board onto the worksheet for deliberations.

Frank Rich stated that the plat had been accepted in accordance with the Town of Alton Zoning Ordinance of 520B. All Board members agreed.

Paul LaRochelle stated that the specific site was an appropriate location for the use. He believed that this was a great location in reference to the surrounding properties in the district that it was in. All Board members agreed.

Tim Morgan stated that factual evidence was not found that the property values in the district would be reduced due to incompatible uses. He thought that the development of this property was a nice improvement. All Board members agreed.

Lou LaCourse stated there was no valid objection from abutters based on demonstrable fact. He stated that the Board did not receive any objections from abutters. All Board members agreed.

(Upon transcribing the minutes, it was noted that Frank Rich skipped reading the second line of the “Nuisance” Statement from the worksheet and proceeded to read the second line of the “Facilities” Statement.)

Frank Rich stated that there was no undue nuisance or serious hazard to pedestrian or vehicular or to ensure proper operation of the proposed use or structure. Tim Morgan agreed and stated, as the applicant already stated, that the Planning Board had reviewed the parking and traffic. All Board members agreed.

Paul LaRochelle stated there was adequate area for safe and sanitary sewage disposal and water supply. He stated there was a new septic system, which was approved by the State. All Board members agreed.

Tim Morgan stated that adequate and appropriate facilities and utilities would be provided to ensure proper cooperation of proposed use of structure. He thought the applicant addressed this issue. All Board members agreed.

Lou LaCourse stated that the proposed use or structure was consistent with the spirit of the ordinance and the intent of the Master Plan. He stated that the Master Plan looks to expand and support small businesses within the town. All Board members agreed.

Lou LaCourse moved to grant the application for Special Exception for Case # Z17-02. Paul LaRochelle seconded. Motion passed by a vote of (4-0-0).

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| Case # Z17-03 Thomas W. Varney, P.E., Agent for James J. & Lisa C. Hayes, Jr. | Map 38 Lot 50 | Variance Lakeshore Residential (LR) 23 Richardson Drive |
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Paul Monziona sat back in as Chairman. He went on to state that this case was a request for a Variance to permit a garage to be built four feet from each property setback, where ten feet was required, under

Article 300, Section 327 A. 3. The encroachment on the neighbor's lot would be removed and the new garage would be more non-conforming.

Paul Monziona asked the Board to review the application packet for completeness. Tim Morgan asked John Dever, III, if this application was an appeal to a prior decision of the Board; he stated that it was a new request. Frank Rich asked if there was a significant difference with the previous request compared to the current request; John Dever, III, stated that the only difference was the height of the building had been reduced. Frank Rich asked John Dever, III, if the footprint of the building was the same; he stated yes. Tim Morgan asked John Dever, III, if that difference was sufficient for the applicant to request it a second time; he stated that would be up to the Board. Paul Monziona asked the Board to review the application for completeness first, and then all other questions would be addressed after accepting the application.

Tim Morgan moved to accept the application as complete.

Paul LaRochelle seconded.

Lou LaCourse did not think the application was complete. Paul Monziona asked the Board if they would not mind if he withdrew the vote so they could still be in the discussion phase; the Board agreed. Lou LaCourse thought that there was no substantial difference between this application and the previous application, as it pertains to the footprint of the building, and did not feel the Board should accept the application. Paul Monziona stated that Steve Miller, ZBA Member, requested to review the minutes from the first application in order to review what was decided on previously. Tim Morgan shared that at that meeting there was a three-member Board and the applicant decided to go forward with the three-member Board. Paul Monziona informed Lou LaCourse that the Board did not have the option to discuss whether the application should be denied or granted until the Board accepted the application as complete.

Motion passed by a vote of (4-1-0).

Present were Thomas W. Varney, P.E., and James J. Hayes, Jr. Paul Monziona explained to Thomas W. Varney, P.E., that this was a situation to where the applicant previously submitted an application and received a decision, and by not liking the decision, had submitted the application again. He further stated that the Board would decide whether the application had a right to be there a second time.

Thomas W. Varney, P.E., stated that he was before the Board in September of 2016 with an application for a two-story garage in the same location, same variance request, and was denied. Therefore, he spoke to his client, James J. Hayes, Jr., and they decided to submit an application for a one-story garage and felt that it made a difference. Thomas W. Varney, P.E., further stated that if an applicant was denied, that the requirement to come back before the Board was to bring a different situation, but it does not define anywhere how big of a change it had to be. James J. Hayes, Jr., stated that when he was before the Board last September, there was a lot of discussion and a major part of it was how many square feet the building was in total, so by downsizing the garage from a two-story to a one-story building, they felt that would be sufficient. He further stated that where the garage would be built, and the space that they had, he felt that he was not going overboard with too big of a garage, which was a standard 24 foot x 24

foot garage. James J. Hayes, Jr., stated that an abutter, Ann P. Leigh, submitted a letter in favor of this project, which would remove his garage from encroaching their property.

Tim Morgan stated that he read the minutes from the September meeting and there was very little reflected with respect to what the second story would be used for. Thomas W. Varney, P.E., stated that on the plan, it showed the second story was for storage and not for living quarters. Paul LaRochelle believed that part of it was how many square feet the existing garage was now and how many square feet the two-story garage was going to be, which was about four times the size of the current square footage. Lou LaCourse recalled that when they talked about square footage, they did not talk about the fact there was a second floor, and in fact, they talked about the square footage of the footprint, which had not changed with this application.

Paul Monziona stated to Thomas W. Varney, P.E., that there was an ordinance that allowed an applicant to demolish a current non-conforming structure and rebuild it, and if possible, make it less non-conforming, stay within the exact footprint, and if possible, move it out of the setback, but that was not the ordinance he cited. Paul Monziona further stated that since he was not using that zoning ordinance, it was as if he was requesting to build a garage in the setbacks and could they get a Variance, and it did not matter if there was a current garage on the property. Paul Monziona then asked Thomas W. Varney, P.E., why they could not build the garage out of the setbacks, like for example, build a 12 foot x 18 foot garage. Thomas W. Varney, P.E., stated that they wanted to take the garage off the abutter's property and the current garage was too small. Paul Monziona asked Thomas W. Varney, P.E., if they built a smaller garage, where would that leave them as far as the setbacks went. He stated that they would still be in the setback by at least three feet, but only on one side.

Frank Rich asked James J. Hayes, Jr., what his plans were for a 24 foot x 24 foot garage. James J. Hayes, Jr., stated that the garage was going to be for him and his wife to park their cars in. Frank Rich suggested placing the garage lengthwise, unless the topography restricted it; Thomas W. Varney, P.E., stated there were trees in the way. James J. Hayes, Jr., stated things needed to stay the way there were because they already had an approval from the state. Frank Rich asked if the garage ran lengthwise and was built closer to the house, how would that affect the layout; James J. Hayes, Jr., stated it would encroach more on the house and the town had a water line running through that section of his property.

Tim Morgan addressed Paul Monziona and questioned whether it was a new application, and if not, there was not much the Board could do because it had already been denied. Paul Monziona stated that the Board should prevent applicants from resubmitting applications if the applicant was previously denied. Paul Monziona asked Thomas W. Varney, P.E., if he had anything more to add; he stated that he would like the Board to decide whether this was a new application or not. Paul LaRochelle stated that at the September meeting, he believed they had a hardship and voted to grant the application, and he felt that this was a new application because the square footage had changed. Furthermore, he believed that the hardship was the shape of the property. Lou LaCourse disagreed with Paul LaRochelle and believed that it had not changed because the garage would still be within the same setbacks. He further stated that if the Board granted the application that they would be setting a precedent for other applicants to resubmit if they were denied. Tim Morgan agreed with Paul LaRochelle as far as the square footage went, but ultimately felt that it was not a new application. Frank Rich stated that he was not present for the first meeting, but had a chance to read the minutes, and concluded that this was a new application

based on the issues brought up at that meeting, which were: the garage was too close to the property lines and there were two floors.

Frank Rich believed that the Board was not setting a precedent and pointed out that there were no objections on either the first or the second application by abutters. After hearing Frank Rich speak, Paul Monzione agreed with him that it was a new application, and explained that if there were other instances like this, it would be handled case by case. He further stated that although he felt it was a new application, he felt that they still did not address the encroachment issue. Paul LaRochelle stated that the Board suggest to the applicant that a more significant change happen even if it was one foot on either side of the current footprint, that way that would give them the option to withdraw and come back with a new application. Paul Monzione pointed out that wanting to construct a two-car garage and requesting a Variance for encroaching upon a setback was not a hardship.

Paul Monzione addressed Thomas W. Varney, P.E., and explained to him that the Board was either going to make a motion as to whether or not the application was new or not, risking a denial, or would they like to withdraw and resubmit with significant differences.

Thomas W. Varney, P.E., decided to withdraw and resubmit a significantly different application in the future.

Paul Monzione stated that Case #Z17-03, the applicant, after listening to discussions and deliberations of the Board, particularly on the issue of whether this was a new application or not, had agreed to withdraw the application at this time.

VI. OTHER BUSINESS

1. Previous Business: none.
2. New Business:
 - a. Jessica A. Call, Planning Secretary, would be taking the minutes of the meeting as of tonight's meeting going forward.
3. Approval of Meeting Minutes: January 5, 2017

**Frank Rich moved to approve the Minutes of January 5, 2017, as written.
Paul LaRochelle seconded. Motion was passed by a vote of (5-0-0).**

4. Correspondence: none.

Discussion: Paul Monzione talked to the Board about looking for significant differences between the first application and the second application if an applicant was coming back for the second time after a denial.

VII. ADJOURNMENT

**At 7:46 p.m., Paul LaRochelle moved to adjourn.
Frank Rich seconded. Motion passed by a vote of (5-0-0).**

Respectfully submitted,

Jessica A. Call
Planning Secretary

Minutes approved as written: April 6, 2017