

TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
May 7, 2015
Approved July 2, 2015 as amended

I. CALL TO ORDER

Paul Monzione called the meeting to order at 7:00 p.m.

II. INTRODUCTION OF CODE ENFORCEMENT OFFICER AND ZONING BOARD MEMBERS

Paul Monzione, Chair, introduced himself, Board members, and Staff:
 John Dever, Code Enforcement Officer
 Paul Larochele, Member
 Tim Morgan, Vice Chair
 Lou LaCourse, Member
 Steve Miller, Member

III. APPOINTMENT OF ALTERNATE

Currently, there are no alternates to the Zoning Board of Adjustment. Anyone interested in becoming an alternate to the Zoning Board should apply.

IV. STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds which the Board must consider when making a determination. The purpose of the hearing is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against an appeal but all facts and opinions based on reasonable assumptions will 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 has been or will be met.

V. APPROVAL OF THE AGENDA

S. Miller made a motion to approve the agenda as presented. T. Morgan seconded the motion which passed unanimously. (5-0-0)

VI. CONTINUED APPLICATIONS

Z15-04 David Bruhm	Map 44 Lot 53	Variance 134 Black Point Road
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David Bruhm is requesting a Variance form Article 300 Section 327 A.2 of the Zoning Ordinance to permit construction of a garage that will encroach into the Town's twenty-five (25) foot right-of-way (ROW) setback. The front of the proposed garage will be at the ROW line and approximately (25) feet

from the edge of the existing roadway. This property is located in the Lakeshore Residential (LR) Zone.

P. Monziona read the case into the record. This application was accepted as complete at the original hearing.

David Bruhm came forward and introduced himself for the record.

Mr. Bruhm would like to construct a garage across the roadway from his existing home; the garage will encroach into the ROW setback, but will be 25' to 30' from the travelled way. His lot has a very steep grade, and this is the only location on which he can construct the garage. The lot on the side where the house is located has already reached the state regulation limits for lot coverage.

Included with the application is a letter from the Black Point Road Association allowing him to build right to the right of way, which will still be a distance away from the existing roadway. T. Morgan referenced the letter from the Association; it states several conditions, which Mr. Bruhm assured the Board he will meet.

P. Monziona stated that an agreement between the property owner and the association is a private matter that legally has nothing to do with the ZBA process, unless the applicant is making a representation that the construction is going to be in compliance with the items as listed in the agreement. Once that representation is made during the hearing, it forms the basis for the decision whether to grant the variance, and at that point it would be binding. One of the criteria considered is whether there are reasonable objections from abutters; this letter addresses some of that, but only if the representation is that the conditions stated in the letter will be adhered to. S. Miller added that he would have difficulty approving the application if the Association had issue with it. P. Monziona agreed and added that there is actually a state statute that points out that representations made at these Board hearings are binding.

P. Monziona clarified through questioning that the steepness and limitations of the lot had been thoroughly discussed at the original hearing.

Public Input – there was none either in favor of or in opposition to the application being granted. Public input was closed.

Department Head comments were briefly discussed; there are no concerns.

WORKSHEET

P. Larochelle stated that the variance **will not** be contrary to the public interest. This is going to be consistent with a lot of other properties on the road for garages. T. Morgan agreed that it will not be contrary to the public interest. The public interest is concerned with having sufficient setback for safety, and that is and will continue to be the case. P. Monziona, L. LaCourse, and S. Miller agreed.

T. Morgan stated that the request **is** in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. As was previously stated, the district has other structures in the Association that come close to the road and none of them seem to be creating a problem, so it is within the spirit and intent of the Master Plan. P. Monziona agreed and added that with an opportunity for department heads, including the head of the fire department, to review the application, the comments received indicate that there is adequate access for emergency and fire on that road. The convenience, health and character of the district are being protected. L. LaCourse, S. Miller, and P. Larochelle all agreed.

P. Monziona stated that by granting the variance, substantial justice **will be** done; structures such as this are permitted on the lot, but the unique characteristics of this property in terms of the slope and terrain as well as the presence of ledge prevent the applicant from being able to place the structure anywhere else. Substantial justice will be done by granting the variance. All other members agreed.

L. LaCourse stated that the request **will not** diminish the value of surrounding properties; no evidence has been brought forward indicating any affect on the surround property values. S. Miller agreed and added that surrounding property values would probably be enhanced. P. Larochelle and T. Morgan both agreed. P. Monziona agreed and added that no one came in to object or present any evidence that values would be diminished. In light of the fact that a private agreement has been reached and those representations were made to the Board that it will be complied with, then the values will not be diminished.

S. Miller stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; **no** fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; the proposed use **is** a reasonable one. There is a specific hardship; the grade and lack of space on the house lot to put a garage. It is not unreasonable, particularly in the winter, to want a garage to protect his assets. The general public would agree that a garage would be appropriate and the evidence has shown that there is no opposition, not only from abutters but also from the Association. All other members agreed.

S. Miller made a motion to grant the request for variance in Case Z15-04 with the stipulation that the document provided by the Homeowners' Association is signed and delivered to the Planning Department before the variance is granted, and the criteria in the letter are to be met. T. Morgan seconded the motion.

P. Monziona stated that he has some issue with having a signature on the letter before the variance is actually granted. J. Dever confirmed that there is no problem with holding the final granting until the letter is returned.

The above motion passed unanimously. (5-0-0)

P. Monziona explained to the remaining applicants in the room that the ZBA has a rule that they will not begin any new case after 10:00 p.m. A case in progress at 10:00 p.m. would be concluded, but cases not started prior to 10:00 p.m. would be continued to the next meeting.

VII. NEW APPLICATIONS

Z15-07 Jonathan H. and Nancy J. Downing	Map 31 Lot 13	Special Exception 122 Letter S Road
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Jonathan H. and Nancy J. Downing are requesting a Special Exception from Article 300 Section 320 a.4, 6, and 7 of the Zoning Ordinance to permit an "in-kind" replacement of a structure for a non-conforming use that is voluntarily removed. Said structure will be expanded upward and downward and is intended for year round use. This property is located in the Residential Commercial (RC) Zone.

P. Monziona read the case into the record. The application was reviewed for completeness.

L. LaCourse made a motion to accept the application for case Z15-07 as complete; P. Larochelle seconded the motion which passed unanimously. (5-0-0)

Jonathan H. and Nancy J. Downing came forward and introduced themselves for the record.

Mrs. Downing explained that they would like to remove a dilapidated barn existing on the site; a site plan showing the location of the barn is included with the application. It meets all of the Town's setback requirements. The original barn had a barn structure and a one-bedroom studio, and a covered entrance. They are proposing to replace in-kind, except that they would like to have a full foundation under it; the present structure is on piers which have sunk into the ground. Mrs. Downing referenced photos of the present structure, and read the project narrative into the record. The Downings purchased the property in 2013; the property is 1.23 acres with a two-bedroom cottage and a detached two-story barn with a covered entrance porch and a one-bedroom apartment within. Both buildings were circa 1880's and very dilapidated. Improvements have been made to the property, including removal of unhealthy trees and permitting of a septic system. The cottage has been demolished and is in the process of being replaced. To complete the process they are seeking approval to voluntarily remove the barn and to replace it in the same footprint, which does comply with all of the setback requirements. The goal of the project is to recreate the property with an up-to-date, per-code construction and amenities while maintaining the historical appearance and increasing the appeal in the neighborhood.

S. Miller asked the reason for the exception. Mrs. Downing explained that to her knowledge the special exception will allow them to remove the barn and replace it in-kind, except that they are going to be going upward and downward by putting a full foundation under the barn. They are also expanding the use to possible year-round, though they are not sure it will be year-round. P. Monziona asked how much higher the new structure will be; Mr. Downing explained that the foundation will add about two feet and the overall structure may be a foot or so higher, which would be 3-4 feet in total. It will be within the 35' height limit. Mrs. Downing added that it will be graded for positive drainage all around the structure; presently there is none. S. Miller asked what the height would be from the ground to the peak; Mrs. Downing answered that at the very highest, it would be 35', but on average it would be less than 35'.

L. LaCourse questioned an area on the photos that looks like a deck and asked if it would be constructed on the new barn. The Downings explained that that area of the photos is where the studio apartment and covered entrance was located; that has already been removed because it presented a hazard. L. LaCourse confirmed through questioning that the new structure is also going to encompass the area that looks like a deck.

T. Morgan asked what the non-conformity is that is being dealt with; J. Dever explained that there will be two dwellings on the lot. There was discussion about how an accessory apartment, which is allowed in this zone, is defined. If the barn was there and the apartment was above, then it would be an accessory apartment. The first floor will be the apartment, with storage above. The size of the apartment is expanding. There are no setback issues, and there is no need to calculate the percentage of the accessory apartment versus the main house because this is not being presented as an accessory apartment because they are not looking to avail themselves of the accessory apartment regulation. L. LaCourse questioned whether, whatever regulation relief is sought from, this is still an accessory apartment. J. Dever pointed out that there is no need to request relief from that regulation because the apartment was pre-existing.

S. Miller asked if Jane Cormier is still an abutter; Mrs. Downing answered that they abut at the back property lines.

Public Input – there was none either for or against the application being granted. Public input was closed.

WORKSHEET

T. Morgan stated that a plat **has been** accepted in accordance with the Town of Alton Zoning Ordinance 520B. All other members agreed.

P. Monziona stated that the specific site **is** an appropriate site for the planned use; the use really isn't changing. If there is going to be year-round use, the use is expanding but not changing, so the use is appropriate. All other members agreed.

L. LaCourse stated that factual evidence **is not** found that property values in the area will be reduced due to incompatible uses. These buildings were pre-existing; if anything the value would go up because the buildings will be in much better shape once the project is completed. All other members agreed.

S. Miller stated that there **are no** valid objections from abutters, based on demonstrable fact. P. Larochelle agreed. T. Morgan also agreed and added that there was no testimony from abutters at all. P. Monziona agreed and added that this is going to be a tremendous improvement to the property and for safety that he could not imagine there would be objections. P. Larochelle agreed.

P. Larochelle stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking; this is going to be in the same location as before, so nothing is changing and it is going to be the same use. All other members agreed.

T. Morgan stated that adequate and appropriate facilities and utilities **will be** provided to insure the proper operation of the proposed use or structure; facilities and utilities are being upgraded as a result of this proposal, so it will be appropriate. All other members agreed.

P. Monziona stated that **there is** adequate area for safe and sanitary sewage disposal and water supply; his understanding from the application is that appropriate water and septic is part of the property already and that nothing about this improvement is going to tax that above what it is approved for. All other members agreed.

L. LaCourse stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. The buildings currently exist and going down a little or up a bit, there is no significant change. S. Miller agreed and added that even though the barn is not going to be used as a barn, it is still consistent with the Master Plan and is appropriate for the intent. P. Larochelle, T. Morgan, and P. Monziona also agreed.

T. Morgan made a motion to grant the Special Exception for Case Z15-07 as presented. P. Larochelle seconded the motion.

S. Miller questioned whether this could be used as income generating property, and whether this Board has any control over that. P. Monziona explained that this will be like any other property in town, and the owners will be eligible to either rent it or live in it. T. Morgan pointed out that an increase in reasonably priced rental property is actually sought by the town.

The above motion passed unanimously. (5-0-0)

Z15-08 William L. and Nancy A. Collette	Map 36 Lot 23	Variance 155 Mount Major Highway
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William L. and Nancy A. Collette are requesting a Variance from Article 300 Section 327 B.2.d of the Zoning Ordinance to permit a conversion of an 8' X 10' portion of the existing porch structure into living space. This property is located in the Residential Commercial (RC) Zone.

P. Monziona read cases Z15-08 and Z15-09 into the record. As much of the submitted application materials cross between the two applications, they were reviewed concurrently, but the decision for each case will be made independently.

T. Morgan made a motion to accept the applications for Cases Z15-08 as complete. S. Miller seconded the motion.

L. LaCourse questioned whether there is a depiction of where the structure sits in relation to the setbacks. The applicant along with J. Dever pointed out the setbacks on a drawing of the site; the only setback in question is the front.

The above motion passed unanimously. (5-0-0)

S. Miller questioned the location of this property.

S. Miller made a motion to accept the application for Case Z15-09 as complete. L. LaCourse seconded the motion which passed unanimously. (5-0-0)

William Collette came forward and introduced himself for the record. Mr. Collette voiced no preference as to the order in which his cases were heard, so they were processed in order of the agenda.

Mr. Collette explained that the property was purchased in 2012 and is used mostly as a summer home. As his wife enjoys cooking, they would like to expand the kitchen by enclosing part of the existing seasonal porch and adding it to the kitchen/dining area as additional living space. P. Monziona confirmed through questioning that the structure is non-conforming because it is into the 25' right-of-way setback. The validity of the ordinance selection was discussed and it was decided that the relief being sought by the variance is correct. The agenda is incorrect in that the Section number was mistyped, but the application itself is correct.

P. Monziona questioned how much of the existing porch is to be converted to living space; Mr. Collette answered that it will be about 1/3. The porch is 24 feet in total, and the request is for just under nine feet. The footprint will not change with this application. There will be no increase to the number of bedrooms. L. LaCourse questioned the location of the porch; the applicant used the drawing provided with the application to explain the proposed change.

Public Input – there was none either in favor of or in opposition to the application being granted. Public Input was closed.

The applicant added that they have discussed this proposal with their neighbors and they all seemed to be fine with it.

WORKSHEET

P. Monziona stated that the variance **will not** be contrary to the public interest. This stays within the footprint and only be 1/3 of the porch. It will make a substantial improvement to this property; it is in the public interest to see this kind of improvement. All other members agreed.

L. LaCourse stated that the request **is** in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. There really is no major change in the structure of the outside of the building. The building currently meets the spirit of the ordinance, and that should not change. S. Miller and P. Larochelle agreed. T. Morgan agreed and added that it is in accordance with the Master Plan because this is an area of the town that surveys have shown the townspeople are interested in seeing improved and maintained, and this is a step in that direction. P. Monziona agreed.

S. Miller stated that by granting the variance, substantial justice **will be** done; nothing changes except the expanded usage of the property and the enjoyment for the owner. The porch size being decreased and the dining area being increased are purely for the enjoyment of the property owner and justice would be enhanced if that took place. P. Larochelle and T. Morgan agreed. P. Monziona agreed and added that the Zoning Ordinance prohibits people from converting porches into living space, but that is to prevent it being done the wrong way and creating hazards and problems when you turn a porch into a room, but in this case everything in the application indicates that substantial justice will be done by having this expansion. L. LaCourse agreed for all of the reasons given.

P. Larochelle stated that the request **will not** diminish the value of surrounding properties; if anything it will increase values and make the house more comfortable for the homeowner to be able to function more efficiently. All other members agreed.

T. Morgan stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; **no** fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; the proposed use **is** a reasonable one. The use is not particularly changing; it will remain a residence, just part of the porch is changing to living space, so that is a reasonable use. In terms of hardship, this is a steep area with the lake on one side and a road in an area that has developed and encroached on these one time cottages. It's difficult to do anything with those properties without being granted a variance, so there is sufficient hardship to warrant granting a variance. All other members agreed.

S. Miller made a motion to approve the request for variance for Case Z15-08 as submitted. L. LaCourse seconded the motion which passed unanimously. (5-0-0)

Z15-09	Map 36 Lot 23	Variance
William L. and Nancy A. Collette		155 Mount Major Highway

William L. and Nancy A. Collette are requesting a Variance from Article 300 Section 327 A.2 of the Zoning Ordinance to permit an 8' X 16' addition to the south side of the house. This property is located in the Residential Commercial (RC) Zone.

Mr. Collette explained the second request; the idea is to expand the kitchen area, and the least intrusive way to do that is to square off to the front of the building without going any further into the front setback. They explored other options, but are unable to expand anywhere else. The part of the property they are trying to expand is to the front. Most of the area properties are at least as far forward as his, and some are further forward into the setback. The side this expansion will be on is further from the setback and will not intrude on neighbors.

P. Monziona asked if the proposed expansion is within all other setbacks. J. Dever stated that it is; even with the addition there will be 32' feet to the setback. S. Miller asked if the deck hangs over the grade; Mr. Collette explained that the deck is only a foot or two off the ground. P. Monziona asked if this expansion will make the building more non-conforming by expanding the total amount of building that is within the setback, but it does not expand the building any further into the setback. Mr. Collette agreed with that statement. P. Monziona conformed through questioning that there will be more square footage within the setback, but that the addition will end where the building currently ends, so it will be no further into the setback. L. LaCourse referred to the drawing provided with the application for confirmation of where the expansion will be. Mr. Collette added that in the interest of full disclosure, there will also be a deck addition that will be within the building envelope and does not encroach on any setbacks.

S. Miller asked about water and septic. This property is on town water supply, and the septic is located as noted on the diagram; it is compliant with town regulations concerning distance from the house to the septic tank. The addition will be on piers and will not be affected by the location of the septic.

Public Input – there was none either in favor of or in opposition to the application being granted. Public Input was closed.

WORKSHEET

L. LaCourse stated that the variance **will not** be contrary to the public interest. The expansion will not go further into the setback than the building currently is; it is merely going out on the side. It will stay within its own setbacks and in that area there are a lot of small cottages that were expanded over time. All other members agreed.

S. Miller stated that the request **is** in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. Although there is additional square footage in non-conformity, it doesn't go beyond the current setback that has already been approved. It is far enough away from all utilities that it meets code and regulations for the town, and the spirit of the ordinance is to make a home more comfortable and more livable without invading the rights of other abutters, so this is appropriate. All others agreed.

P. Larochelle stated that by granting the variance, substantial justice **will be** done; this is going to be very consistent with surrounding homes, so substantial justice will be done. T. Morgan agreed and added that the benefit to the applicant far outweighs and detriment to the town. P. Monziona agreed and added that a strict enforcement of the ordinance would result in substantial injustice to the applicant, particularly given that the expansion into the right of way in no way adversely affects this property or the abutting properties because the structure is already there and the way this is expanding is not going any further into the right of way setback. L. LaCourse and S. Miller agreed.

T. Morgan stated that the request **will not** diminish the value of surrounding properties; there has been no testimony with regard to changes in property values, but it would seem on the face that improvement to this property would help the value of surrounding properties. P. Monziona agreed and added that the Board has received no evidence or objections. All other members agreed.

P. Monziona stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; **no** fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; the proposed use **is** a reasonable one. The use is certainly a reasonable one; it is residential use, the same as it has been for years. Nothing is different about the use. Strict enforcement of this regulation in this case would serve no public purpose whatsoever, given that the structure is already in the

setback. This is improving the building overall and making a better condition for the property. All other members agreed.

T. Morgan made a motion to approve the request for variance for Case Z15-09 as submitted. S. Miller seconded the motion which passed unanimously. (5-0-0)

Z15-10 David J. and Janet M. Babin	Map 56 Lot 7	Special Exception 76 Woodlands Road
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On behalf of David J. and Janet M. Babin, Paul F. Zuzgo, LLS is requesting a Special Exception from Article 300 Section 320 B.5 of the Zoning Ordinance to permit replacement of a non-conforming structure that will be voluntarily removed. This property is located in the Lakeshore Residential (LR) Zone.

P. Monziona read the case into the record. The application was reviewed for completeness.

L. LaCourse made a motion to accept the application for Case Z15-10 as complete. S. Miller seconded the motion which passed unanimously. (5-0-0)

Paul Zuzgo and David Babin came forward and introduced themselves for the record.

Mr. Zuzgo, representing David Babin, explained that the existing structure falls within the 30' waterfront setback. They would like to tear down the existing house and replace it with another house, on the existing foundation; the footprint of the house is going to stay the same. The Special Exception is being requested for being within the 30' setback. S. Miller asked where the property is located; Mr. Zuzgo explained the location.

P. Monziona questioned how the two applications (one special exception and one variance) could work together. He explained to the applicant that if only the Special Exception is granted, the applicant would be limited to replacing the building with the same footprint with no increase in length, width, or height, and no increase in the number of bedrooms. The application for variance is for expansion, but if it is not granted, the new building would be limited to exactly what is there. J. Dever pointed out that there is no porch on the building now; there was discussion about what order to proceed in with the two cases.

Mr. Babin explained that he has a septic approval for three bedrooms; the current house has two and an office which has always been used as a bedroom. He is taking steps to make it a "legal" three bedroom. The tank has already been done, and the leech field has been approved. The special exception applied for would limit any expansion of the building or any increase in the use. The home is already in use year-round, so the use will not be expanded. P. Monziona determined that the order of the cases was not really relevant.

T. Morgan questioned the appearance of a deck on the south side of the building; this is actually just a step going up to a slider. It appears larger on the plan, and Mr. Zuzgo acknowledged that it should have been removed. T. Morgan observed that the only part that needs Special Exception is one little corner to the west; that will continue to be the only non-conforming portion if the special exception is granted. P. Monziona again reiterated the point that if only the Special Exception is granted, the house will only be permitted to be replaced in kind.

L. LaCourse questioned an area to the left side of the house; J. Dever explained that it is not supposed to be there and that the porch will be a wrap-around addressed in the variance request.

Public Input – There was none, either in favor of or in opposition to this application being granted. Public input was closed.

L. LaCourse confirmed through questioning that there will be no expansion in any direction.

WORKSHEET

S. Miller stated that a plat **has been** accepted in accordance with the Town of Alton Zoning Ordinance 520B. All other members agreed.

P. Larochelle stated that the specific site **is** an appropriate site for the planned use; the use will stay residential. All other members agreed.

T. Morgan stated that factual evidence **is not** found that property values in the area will be reduced due to incompatible uses. The use is the same and it is an improvement to an old residence being replaced with a new one. P. Monziona agreed and added that there are no abutters or anyone else to present objection or evidence that values would be reduced. L. LaCourse agreed. S. Miller agreed and added that there is likely to be an increase in assessment. P. Larochelle agreed.

P. Monziona stated that there **are no** valid objections from abutters, based on demonstrable fact. No one has come forward to object and based on this project it would be doubtful that anyone could find valid ground to object. All other members agreed.

L. LaCourse stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking; this is going to be in the same location as before, so nothing is changing and it is going to be the same use. All other members agreed.

L. LaCourse stated that adequate and appropriate facilities and utilities **will be** provided to insure the proper operation of the proposed use or structure; facilities and utilities are being upgraded as a result of this proposal, so it will be appropriate. All other members agreed.

S. Miller stated that **there is** adequate area for safe and sanitary sewage disposal and water supply; this is evidenced by the recent upgrade to a three bedroom system. All other members agreed and S. Miller and L. LaCourse voiced appreciation for the upgrade to the septic system. The property is on town water.

P. Larochelle stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. T. Morgan agreed and added that the spirit of the ordinance is to be able to replace non-conforming structures with new buildings and that is what is happening here. All other members agreed.

S. Miller made a motion to grant the Special Exception for Case Z15-10 as presented. P. Larochelle seconded the motion. The motion passed unanimously. (5-0-0)

Z15-11	Map 56 Lot 7	Variance
David J. and Janet M. Babin		76 Woodlands Road

On behalf of David J. and Janet M. Babin, Paul F. Zuzgo, LLS is requesting a Variance from Article 300 Section 327 A.1 of the Zoning Ordinance to permit construction of a porch in conjunction with the

construction of the house. The porch will encroach into the 30' setback. This property is located in the Lakeshore Residential (LR) Zone.

P. Monzione read the case into the record. The case was reviewed for completeness. The Plan from Case Z15-10 is to be used as part of this application as well.

L. LaCourse made a motion to accept the application for Case Z15-11 as complete. P. Larochelle seconded the motion which passed unanimously. (5-0-0)

Mr. Zuzgo explained that in conjunction with the construction of the house, a front porch is going to be added on the water side which is going to encroach further into the 30' setback. It will meet the 30' setback to the right of the house. It will be 30.5' on that corner. The left corner will be 21.9' from the shore, so the porch addition will need a variance. T. Morgan confirmed through questioning that this will be a covered porch; he also questioned whether the variance allows for a covered porch as opposed to an open deck. J. Dever explained that would be an issue for Shoreline; they allow 12 feet of deck if there is already encroachment. This has been addressed with a Shoreline Permit, which has been applied for. The applicant has spoken to DES and based on that conversation has redesigned the whole house to accommodate the allowed porch. The applicant and Mr. Zuzgo went on to explain that they will be making improvements to the drainage and stormwater runoff in that the current impervious surface is 33% and they are going to bring that down to 22%. The only restriction the state placed on the construction of the porch is that it cannot be enclosed with doors and windows.

P. Monzione used the drawing from the application to clarify the location of the house and porch in relation to the setbacks. The existing house is 7' into the setback at its greatest point; the porch will add 15 more feet into the setback at the greatest point. This home is located on a peninsula so the shoreline is irregular. From the existing corner to the corner of the proposed porch the distance is approximately 26 feet; the porch will be 10 feet wide with a roof that hangs out another two feet.

P. Monzione pointed out that there will be additional impervious area due to the deck and roof; the improvements Mr. Babin intends to make are going to make the lot more conforming for the state with better stormwater management. The decrease in impervious area from 34% to 22% overall takes the impervious area of the deck into consideration. The deck will be on pilings.

Public Input – there was none, either in favor of or in opposition to this application being granted. Public input was closed.

WORKSHEET

S. Miller stated that the variance **will not** be contrary to the public interest. The only possible concern would be to the shoreline, and that will be taken care of with constraints placed by DES. All other members agreed.

S. Miller stated that the request **is** in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. Nothing is changing; it is still going to be the same use. T. Morgan agreed. P. Monzione agreed particularly because of other improvements that are being made; he would like to advocate reduction to the impervious area as part of any granting of the variance. All other members agreed.

T. Morgan stated that by granting the variance, substantial justice **will be** done; the benefit to the applicant will far outweigh any detriment to the community by having a small porch extend into the setback. P. Monzione and L. LaCourse agreed. S. Miller agreed and added that the detriment is absolutely nominal. P. Larochelle agreed.

P. Monziona stated that the request **will not** diminish the value of surrounding properties; what the Board has seen tonight is a series of applications for the improvement of properties that could stand improving. They are making them safer and complying with new building materials and efficiencies as well as building codes. If anything this will enhance the value of this property and therefore will potentially improve the surrounding properties. L. LaCourse agreed. S. Miller agreed and added that there has been no evidence to the contrary. P. Larochelle and T. Morgan agreed.

L. LaCourse stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; **no** fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; the proposed use **is** a reasonable one. The request is reasonable; this will improve the property in every way. No fair and substantial relationship exists between the purpose of the ordinance and this request because it is improving the property. S. Miller does not believe that the hardship criterion has been met; there is nothing unique about this property to make it something special to consider a variance. That said, he stated that there is no fair and substantial relationship between the purpose of the ordinance and the specific application of that provision to the property. All the applicant is asking for is to enhance the value and usefulness of the property; he has gone to the State and from prior testimony, has improved on his property by increasing the septic system, etc. It is in the best interest of the community. P. Monziona clarified that S. Miller is agreeing that no fair and substantial relationship exists between the purpose of the ordinance and this request, and that the proposed use is a reasonable one. P. Larochelle agreed. T. Morgan agreed and added for the record that this property is unique in that it is an unusually shaped peninsula, and it is that shape that causes the need for this variance. P. Monziona agreed with that statement; that is a condition that sets it apart from a lot of other lakefront properties. There is a point where the shoreline cuts in closer to the property, which has been existing and grandfathered for that purpose. Also, the proposed use is a reasonable one, as it is continuing as residential use.

S. Miller made a motion to approve the request for variance for Case Z15-11, with the condition that all constraints placed by DES are to be met. T. Morgan seconded the motion.

P. Monziona requested an amendment to the motion to add a condition that representations made by the applicant to improve the impervious area, which may or may not be required by DES, be included in the motion.

S. Miller amended the motion as stated above; T. Morgan seconded the amended motion which passed unanimously. (5-0-0)

P. Larochelle recused himself in order to represent the following cases.

The Board took a short recess.

Z15-12 Bruce and Dorothy Brown	Map 37 Lot 40	Variance 22 Notla Lane
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On behalf of Bruce and Dorothy Brown, Paul Larochelle is requesting a Variance from Article 300, Section 3320B.2.a of the Zoning Ordinance to permit alteration of a non-conforming structure by increasing the non-conformity by approximately 100 square feet. This property is located in the Lakeshore Residential (LR) Zone.

The case was read into the record by P. Monziona. P. Larochelle informed the Board that the applicant has decided to withdraw this application and to concentrate totally on the request for Special Exception.

S. Miller stated, on the subject of recusal, that he feels that even though he and all Board members have a relationship with Mr. Larochelle as a fellow Board member, he is able to render a fair and impartial judgment but will recuse himself if Mr. Larochelle so chooses. All other members spoke in

kind. P. Monziona recalled a vote several years ago that permits members to represent clients at whatever board they sit on. The hearing proceeded with four members.

It was discovered at this point that there is an inconsistency on the agenda in that the case numbers between the variance and the special exception have been reversed. The Special Exception is Z15-12; Z15-13 is the variance that is being withdrawn.

P. Monziona made a motion to make a late change to the agenda to reflect the correct case numbers under discussion. L. LaCourse seconded the motion which passed unanimously (4-0-0)

Z15-12 Bruce and Dorothy Brown	Map 37 Lot 40	Special Exception 22 Notla Lane
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On behalf of Bruce and Dorothy Brown, Paul Larochelle is requesting a Special Exception from Article 300 Section 320 B.2.c of the Zoning Ordinance to permit approximately 100 square feet expansion of non-conformity above the existing dining room. This property is located in the Lakeshore Residential (LR) Zone.

P. Monziona asked P. Larochelle if there are any materials in the Variance packet that need to be considered as part of this Special Exception; submissions from Z15-13 will also be included. S. Miller asked if there is an agency letter in place; the agency letter is part of the original Variance request.

P. Monziona read the case into the record. The application, including the necessary items needed from the application for Case Z15-13 (withdrawn), was reviewed for completeness.

L. LaCourse made a motion to accept the application for Case Z15-12 as complete; T. Morgan seconded the motion which passed unanimously. (4-0-0)

P. Larochelle explained that the Browns bought the house in 2012 and are planning to retire in it full time in 2016. This is a year-round vacation home that needs some upgrade. The lot is sloped; the garage is on the hill behind the house and there are stairs from it going down to the house. The Browns would like to add provisions to accommodate a future elevator shaft. In order to do this and change the configuration of the second floor master suite, they want a Special Exception to increase the second floor over the existing first floor dining area, or about 150 square feet. That portion of the roof over the dining room would be removed and the second floor would be expanded. This expansion would be to the lakeside, which is 14' from the existing boathouse and an encroachment on the lake setback. P. Larochelle used pictures from the application to illustrate the location of the expansion. The location of the property was discussed. This is a waterfront property.

Changes to the roofline were discussed; the existing A-frame roofline will be continued out to accommodate the expansion. An engineer is looking at the structure for support and aesthetics.

T. Morgan questioned the amount of the expansion will be encroaching; P. Larochelle conformed that it will be about ½ of the expansion. P. Monziona questioned what the non-conformity actually is; J. Dever answered that it is within the 30' lake setback. There will be no increase in the non-conformity; this is an expansion of use by adding 150 square feet. This is currently a three bedroom house with a three bedroom septic approval; they are simply expanding the bedroom to accommodate a possible future elevator shaft.

P. Monziona questioned whether the extension of the roofline to accommodate the expansion would create an issue with the height restriction. After discussion, all agreed that it would not.

S. Miller questioned the ownership of the property; the notation on the tax map is old. P. Laroche confirmed that Bruce and Dorothy Brown are the owners.

Public Input – there was no public input because there were no members of the public present. Public input was closed.

WORKSHEET

P. Monziona stated that a plat **has been** accepted in accordance with the Town of Alton Zoning Ordinance 520B. All other members agreed.

L. LaCourse stated that the specific site **is** an appropriate location for the planned use; the building already exists and is appropriate, and the use is not changing. All other members agreed.

S. Miller stated that factual evidence **is not** found that property values in the area will be reduced due to incompatible uses. The assessment will probably go up, and there has been no evidence to the contrary. T. Morgan agreed. P. Monziona agreed and added that no one came forward to object or to demonstrate otherwise. L. LaCourse agreed.

T. Morgan stated that there **are no** valid objections from abutters, based on demonstrable fact. There was no public input and no written objections from abutters. All other members agreed.

P. Monziona stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking; none of what is proposed here will adversely impact pedestrian or vehicular traffic, or access-ways and off-street parking. All other members agreed.

L. LaCourse stated that adequate and appropriate facilities and utilities **will be** provided to insure the proper operation of the proposed use or structure; the utilities and facilities already exist, and there is nothing being changed in the structure that will affect those. All other members agreed.

S. Miller stated that **there is** adequate area for safe and sanitary sewage disposal and water supply; there is a septic appropriate for the number of bedrooms and that is not being increased, and the footprint is not being expanded. All other members agreed.

T. Morgan stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. The use is not changing; the home is being made more livable for the owners, and that is the spirit of the ordinance. All other members agreed.

L. LaCourse made a motion to grant the Special Exception for Case Z15-12 as presented. S. Miller seconded the motion. The motion passed unanimously. (4-0-0)

P. Laroche rejoined the Board.

VII. OTHER BUSINESS

A. Previous Business: None

B. New Business: Election of Officers

S. Miller nominated T. Morgan as Board Chair; P. Monziona seconded the motion which passed unanimously.

S. Miller nominated P. Monziona as Vice-Chair; L. LaCourse seconded the motion which passed unanimously.

S. Miller nominated P. Laroche as Clerk; P. Monziona seconded the motion which passed unanimously.

C. Minutes: April 2, 2015 - on page 3 of seven, in the third full paragraph, sixth line up, the word "thee" should be "the".

P. Monziona made a motion to approve the minutes as amended; L. LaCourse seconded the motion which passed unanimously (3-0-2).

D. Correspondence: New statute books were provided to members who need them.

VIII. ADJOURNMENT

L. LaCourse made a motion to adjourn; the motion was seconded by P. Laroche and passed unanimously. (5-0-0)

The meeting adjourned at 9:42 p.m.

P. Monziona made a motion to reconvene the meeting to discuss a change to the start time of ZBA meetings. L. LaCourse seconded the motion which passed unanimously. (5-0-0)

T. Morgan made a motion to change the start time of future meetings to 6:00 p.m. S. Miller seconded the motion which passed unanimously. (5-0-0)

P. Monziona made a motion to re-adjourn; L. LaCourse seconded the motion which passed unanimously. (5-0-0)

The next regular ZBA meeting will be held on June 4, 2015, at 6:00 p.m. at the Alton Town Hall.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session