

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

**Members Present:**

Roger Sample, Chairman  
Scott Williams, Vice-Chairman  
Russ Wilder, Clerk  
Peter Bolster, Member  
Tom Hoopes, Member  
Virgil MacDonald, Selectmen's Rep.

**Others Present:**

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

**CALL TO ORDER**

Roger Sample called the meeting to order at 6:00 p.m.

**APPROVAL OF AGENDA**

Roger Sample asked if there were any changes to the agenda since it was posted; Nic Strong stated, no.

**Scott Williams MOVED to accept the May 15, 2018, agenda, as presented.  
Virgil MacDonald seconded the motion, and it PASSED unanimously.**

**Scott Williams MOVED to change the agenda by hearing Public Input on Non-Case Specific Local Planning Issues first.  
Virgil MacDonald seconded the motion, and it PASSED unanimously.**

Roger Sample read the following notice to the public:

“On advice of Town Counsel, the Planning Board cannot discuss the American Legion situation as it is currently an enforcement action with the Code Official. The Planning Board could prejudice the case if they discuss it before an application is submitted to them. The Planning Board is, as always, committed to assisting applicants during the hearing process with the procedures required by the Town of Alton's ordinances and regulations. The Planning Board strongly encourages anyone with questions about the Town's requirements to speak with staff in the Building and Planning Departments for further assistance during the application process.”

Dave Hussey came to the table. He stated that he did not represent the American Legion in any way, he was not a Board member, but he was a member of the club itself. He was present because of a letter that was circulated a while back that had his name on it. He called Liz Dionne, Town Administrator, because his name was on the letter, but not in fact. He informed her that he did not want his name mentioned, and he told John Dever, III, the same thing. He stated that the facts were not in the letter and offered the Board a time to sit down with him and he would discuss things in detail. Roger Sample was unsure about what Dave Hussey meant when he talked about “facts”. Dave Hussey explained that the letter stated that

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

he agreed.... Virgil MacDonald interrupted him and stated that the Board would need to read that letter in order to know what he was talking about. Roger Sample stated that the Board was unaware of which letter he was referring to. Russ Wilder wanted to know who wrote the letter and when was it dated.

Dave Hussey stated that he had gone through many of the Board's regulations. He asked what code the Legion had broken. He stated that the Legion had not been served. He asked where the Legion had expanded. He stated the Legion had not had an audit and they were not doing anything at the Legion differently than they did 20 years ago. He asked how the Board came to the decision that the Legion was expanding and they were no longer under the proper zoning laws. The duty of code enforcement was to inform them in writing that the Legion was out of code and then give them time to act on it. He stated the Legion was never given that. Dave Hussey asked for a meeting between John Dever, III, and Nic Strong to ask them what they were looking for. He shared that he brought Bruce with him because Dave Hussey was going to Florida and could not represent the Legion with the issues because he was not going to be here. He stated that he gave Bruce's contact information to both John Dever, III, and Nic Strong. He stated that there were no promises from the Legion that they were going to become a "Commercial Function Facility". He stated that the Legion could not become a "Commercial Function Facility" because back in 1919, it was enacted by Congress that the Legion would stay as a non-profit organization and would be fundraising only; therefore, he felt that the Town could not stick them under a commercial environment. He stated that "Commercial" was the selling of goods and services; they were fundraising, not making money. He stated that recently they held a fundraiser for 68 Hours of Hunger and made \$2,700. Once they cut the check for \$2,700, they did not end up having enough money to pay for their electricity bill the following week. He asked if the Legion was expanding, he wanted to know where. He stated that he talked to John Dever, III, yesterday and John Dever, III, stated that it was the parking out on the highway. He stated that there was another facility on that same road as the Legion that used to park on the highway for 20 years.

Dave Hussey asked John Dever, III, about Mount Major, and John Dever, III, stated it was different because it was a highway. Dave Hussey thought differently and deemed Route 28 to be a highway. He stated that he did not get back to John Dever, III, for four (4) months because he was in Florida. When he came back from Florida, he learned that there was some kind of law that the Legion was supposed to be under. He stated that the Legion was classified under the State as a cocktail canteen, which was a lodge, canteen, or private club. He proceeded to read the definitions of what a private club was: "A group of people organized for the common purpose to pursue common goals, interests, or activities usually characterized by memberships, qualifications, payments and fees, dues, and regular meetings." He stated that the Legion made money to give to the Town, for instance, they gave \$10,000 to the Town's Marching Band when they opened up. He stated that the Boy Scouts resided there. He shared that unfortunately, the Legion had 18 funerals this year and every cent came from the Legion. He was appalled that the Legion was being harassed to apply for a "Commercial Function Facility".

Dave Hussey informed the Board that the Legion was told that there was no such thing as grandfathering in the Town of Alton. He read Section 320A, 1. Non-Conforming Uses from the Zoning Ordinance, "Continuation of use. Any lawful use of land, buildings, or structures, which existed prior to the effective date of the ordinance and amendment, which made the use nonconforming, shall be allowed to continue subject to the provisions of this Article". He then read from Section 340G. Sign Regulations, "Enforcement, Notification and Removal. It shall be the duty of the Code Enforcement Officer to notify

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

the violator and/or building owner of any violation in writing and if condition or violation is not corrected in five (5) business days from the date of notification, the Code Enforcement Officer is authorized to impose a fine as specified by the Board of Selectmen.” He thought that as a citizen of the Town, he did not feel that the Legion was getting a fair deal and wanted to know why the Town was turning their back on them. He shared with the Board that when he came back from Florida, his phone rang off the hook and he had about 300-400 calls just this week. He stated that the Legion was scared of the Town’s Code Enforcement. He pointed out that he used to sit on the Planning Board and he was a Selectman for 14 years and had no reason to lie. He wanted to bring to the Board’s attention all of the issues and asked the Board to consider this. Furthermore, Dave Hussey read from Section 334 “Commercial Function Facility Review Criteria, The Zoning Board of Adjustment may grant a Special Exception for a commercial function facility upon review and consideration of the following criteria.....” He then read Section 334A. “Mitigation of noise, including but not limited to music, through implementation of none..... Section 334A. 1. Establishment and Enforcement of Quiet Hours: 10:00 pm – 10:00 am – No music from 10:00 pm to 10:00 am”. He stated that the Legion was open and State law allowed them to stay open longer than that and asked how could they fit into this ordinance. He referred to Section 334A., 3. “Indoor Music: Locate sound...when feasible; 4. Sound Barriers; and 5. Orientation of Sound Source”. He stated that if the Legion had to abide by the regulations then every other bar in Town had to do the same thing. He noted that the Legion was the only club that did fundraising.

Marty Chabot came to the table. He was the newly elected Post Commander. He was there on behalf of the Legion. He made a point of letting the Board know that the Legion was not just the Legion, it was their Legion that consisted of a family made up of Legionnaires, Auxiliary, the Sons of the Legion, and the Legion Riders. He stated that the Legion held fundraisers and it was their families that donated all the food, and had given some to the Town. The Legion had also given some food to the Town of Barnstead because they had no way of earning money for such affairs. He read an article from the Department of the State of New Hampshire, Secretary of State’s Office, which stated, “I, William Gardner, Secretary of State of the State of New Hampshire, do hereby certify that the Claude Batchelder Post of the American Legion is a New Hampshire non-profit corporation formed March 27, 1920. I further certify that it is in good standing as far as this office is concerned having filed and paid the required fees by law.”

Marty Chabot stated that he met with John Dever, III, and he was adamant about them being a “Commercial Function Facility”. Marty Chabot met with Paul Zuzgo, LLS, and Paul Zuzgo, LLS, emailed John Dever, III, and asked what the Legion needed. John Dever, III, stated that the Legion needed a complete site plan for a “Commercial Function Facility”, which included a trip to the ZBA for a special exception prior to going to the Planning Board. John Dever, III, offered to meet with Marty Chabot if he had any questions. Marty Chabot informed the Board that John Dever, III, stated that he did not have to attend any meetings, but there was a meeting where the Board reviewed John Dever, III’s, letter, and Marty Chabot did not attend. Marty Chabot thought that John Dever, III, was not honest with him. Marty Chabot had the notes from two (2) Planning Board meetings where the Legion was involved and he was not pleased because John Dever, III, told him he would take care of him. Marty Chabot shared that the Legion could barely pay their bills and if they had to hire a surveyor and possibly get an attorney, he was not sure how that was going to happen. He thanked the Board for listening to him. Roger Sample thanked him for coming.

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

***APPROVED***

Joe MacDonald came to the table. He shared that he lived in Alton and had since he could remember. He wanted to say something that did not relate specifically to the Legion. He stated that the Board were all elected officials and he wanted to know why his tax dollars were being wasted on things that should not be going to the lawyer; nothing should go to the lawyer without the Board okaying it. If the Board had Department Heads bringing things to lawyers and doing things on their own, there was something wrong. He stated that it was the taxpayer's money that was being wasted over stuff that should not even be there. He wanted the Board to think about it because he thought it was really sad. From what he understood, the Board was trying to drive businesses out of Town and they were trying to close people down telling them there was no grandfather clause. He shared that this was what people were talking about around Town. He then pointed to Scott Williams and stated that he understood that the Board wanted to close down his pit and if that was the case, that was wrong because he had been there for years. He also referred to the pit on Route 28 South and stated that the Board wanted to close down that pit also. He asked why the Board was fighting things with businesses that brought money into this Town. He then stated that the Board should start doing their jobs or get out and let somebody in that was going to, because there was no department in Town that should be bringing things to a lawyer without the Board knowing about it.

Brendan Twomey came to the table. He stated that he was there to prevent what happened to him and his neighbors from happening to more Alton residents in the future. He stated that the Town of Alton adopted zoning articles 7 in 2018, which was hastily conceived with little forethought. This article encouraged high-density development along the lakeshore zone. He shared that natural resources, aesthetic features, and visual buffers in current character in the area would be negatively impacted. He stated that his neighborhood woke up one morning to learn that they were abutting a subdivision where a wooded area stood. He read from the Alton Master Plan, "Goal 1: To maintain and enhance Alton's rural character in all future land use decisions; Goal 2: To encourage new development to be physically and visually attractive." He stated that this change was the opposite of the Master Plan. He had more than the 25 required signatures of Alton registered voters to show that they were in favor of rescinding Planning Board proposed amendment #6, warrant article #7 that reduced the frontage requirements from 150 feet to 75 feet, which was presented and adopted in the 2018 ballot. Due to the detrimental environmental impact on the lake and on the value of properties, and he proposed to do so.

Mary Chabot came back to the table. He mentioned that when he met with John Dever, III, he asked him why he was singling out the Legion; John Dever, III, stated that he was not. John Dever, III, stated that the ordinance applied to all places of gathering. Marty Chabot then asked John Dever, III, if that letter was going to the Lodge, the Christian Conference Center, and to all the churches in town because they all served food and they were all places of gathering. John Dever, III, replied to Marty Chabot by saying, "all places of gathering," and never told him a yes or a no.

Keith Babb came to the table. He owned and operated the Alton pit under Green Oaks. He came to the meeting to talk about a couple of issues. The first issue was that he wanted everyone to understand that Mary Pinkham-Langer was not certified, nor did she have any criteria that allowed her to consult with the towns other than her general knowledge of the 155-E. regulation; she was only Department of Revenue and nothing more. The second issue had to do with the fact that he did not think it was legal for the Board to hold an Intent to Excavate, which was the same as holding an Intent to Cut. He thought that the Board was holding up his Intent to Excavate because he was not in compliance with all of the Board's newly adopted rules on April 17, 2017, when the Board adopted 155-E. He informed the Board that his pit had

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

been in existence since approximately 1989, but he could chase it all the way back to 1987 for an approved DES permit for Robert Hussey. He was not sure when Robert Hussey opened the pit and thought that Dave Hussey could shed some light on it, because Dave Hussey operated it after Robert Hussey. This pit had been in existence for at least 28 years, minimum. He believed that what the Board was doing was not legal and there was going to be an issue. He shared that he currently had an application in with the Planning Board, he had his AoT permit approved and recorded, there was no regulation at the time and there was some general talk about the possibility of going down and making a pond at some point to give the viability of the pit for a longer period of time. He stated that the Board had closed him up; he asked where the Town was buying product. He referred to John Jeddrey's pit, but mentioned that he was not really a pit anymore, and he was twice the carbon footprint than he was because everything that John Jeddrey brought in had to be trucked from outside towns and then it was processed on that lot and trucked out again. He asked the Board how that was good for the environment. He informed the Board that, unfortunately, if his intent was not signed, Mary Pinkham-Langer would come down and close his pit down as a Department of Revenue Enforcement Officer. Roger Sample thanked him for coming.

Dave Hussey came back to the table. He wanted to add something to what Keith Babb had just said, which had to do with zoning amendment procedures. He explained that the Board was responsible for preparing and holding public hearings on proposals to adopt and revise zoning ordinances. He stated that he did not want to argue to anything that it was not grandfathered, which he stated he had never said, but also towns and zoning ordinances or revisions of the ordinances must be adopted by ballot vote. He informed the Board that they could not just have a public hearing that changes must be by a ballot vote. He stated that this regulation was illegal. Virgil MacDonald asked which RSA Dave Hussey was referring to; he stated, RSA 675:2 and 675:3..

Tim MacDonald came to the table. He stated that if the Board had voted in that there was no grandfather clause, did that mean that every business in town had to shut down. He referred to the Alton Home Center; the parking out front of Town Hall; Deroche's who had two (2) parking spaces; Aubuchon Hardware and all the stuff they had in their parking lot, which was illegal and non-conforming; the Church having a daycare, which was non-conforming; another Church in town was selling breakfast on Sundays, which was non-conforming; and the property lines at J.P. China, their chimney in the bar sat on the neighbor's property, which was non-conforming. He noted that if there was no grandfather clause that meant that everybody in town was shut down as far as business went, according to what the rule looked like. He then asked the Board if that was the way they intended it.

Loring Carr came to the table. He was concerned because when he came to the Board's public hearing when they talked about Amendment #6, he came in that night and he informed the Board that he was against it; this amendment proposed to change the frontage from 150' to 75' around the lake for the properties across the street that did not abut the lake. He informed the Board at that time that the well radius had to be 75' from the property lines. If you had a 75' width, no one would be able to make it because you would have to have 150' to get the well radius. He said it was dismissed and the Board voted it in anyways. After he heard about the gentleman's property being divided, after this amendment was adopted, he looked up the Zoning Amendment Committee (ZAC) minutes. He shared that ZAC only had three (3) meetings, 7/26/16 there was no quorum and only two (2) out of six (6) members attended and they met for 39 minutes and no discussion was had by any of the members regarding the amendment

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

to change the frontage from 150' to 75'; the next meeting was on 9/13 and was held from 6:00 pm – 7:40 pm, four (4) out of six (6) attended. He stated that ZAC talked about 14 items that night and if you divided that and averaged it up, they spent seven (7) minutes and eight (8) seconds average on each item. If you look in the minutes, you would see that amendment was a minimal discussion. He noted that the last time ZAC met on 9/26, they met from 6:00 pm – 8:15 pm, and five (5) out of six (6) members attended and talked about 11 items that night, which averaged six (6) minutes and 49 seconds and again was a minimal discussion. He pointed out that if you looked at the minutes you would see that many of the items had three (3) or four (4) minutes of discussion and was a very small amount. He stated that the Board changed the whole area of the lake on seven (7) minutes and eight (8) seconds, and on six (6) minutes of discussion. He stated that he then came before the Board on the night of the public hearing, ZAC only talked to the Board and discussed the 30' to 50'; they never even talked about the 150' to 75' change. He pointed out that the Chairman at the time, stated that they thought that going from 30' to 50' was in the right direction, so he did not understand how that was the right direction, but going from 150' down to 75' was not the wrong direction, which he thought it was. He stated that he was glad that someone was going to put in a petition article because he thought it was wrong that the town was going to jam more properties around the lake. He stated that the town already had a sewerage problem around the lake and he told the Board at that public hearing that he had seen, as a native to this town, how the algae had gone from three (3) or four (4) feet out, to about 15 or 20 feet out with all these properties being developed around the lake. He thought it was wrong to increase the density around the lake. He also wanted to talk about other issues. He said he was not going to blame the Building Inspector for any of this; if these regulations were put in and the consequences of these regulations was when he interpreted it, it put a burden on the Legion. He shared that as a kid, he saw the Legion donate, and talked about a Christmas event they used to have when they would come in with a duck to eat and a guy would dress up as Santa Claus and give out food and candy. He noted that if the Board was going to put in regulations that had caused this problem, and if the Legion was not grandfathered, then there was something wrong with the regulations. If somebody interprets them, and that this was a consequence, then the ordinances were wrong. He thought it was time that the Board addressed this and suggested putting in more time because seven (7) or six (6) minutes was not enough time to address something that was going to impact the lake in such a drastic area. Loring Carr thanked the Board. Roger Sample thanked him.

Dave Hussey came back to the table. He realized it was not the Board's fault for making non-conforming lots, but it would be the people that brought them in front of them that they would have to sign waivers for because of wells too close to septic systems, etc. He stated that the Board was creating something that they would have to address and filter in the future. He thought that the amendment was created for a certain subdivision. He stated that he started ZAC with John Dever, III, and Ken McWilliams to get rid of stupid laws and not to create more laws. He said that the Legion did not take any money from the town, they did everything themselves and were one of the only non-profit organizations that did not come with their hand out to the town.

Scott Williams left his seat on the Planning Board side of the table and took a seat on the public side of the table. He wanted to speak about the gravel pit issue. He stated that the Board sat down and grandfathered existing pits for 50 years during a long discussion. He shared that when the Board talked about the new regulations, he abstained from them because he did not agree with them, plus they would affect him. He said he had no complaints in the almost 30 years he had operated his pit. He noted that it was only for himself; he did not sell retail to anybody, unless someone came in for a bucket of loam once

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

in a while, but it was very rare. He stated that between him and his wife, they employed several people that relied upon them for their livelihood and they took it very seriously. Indirectly, they did a lot more through their subcontractors, who were local people. He said that they timely put in their notices to excavate and someone made the decision not to let the Board of Selectmen make the decision on that, which they were the governing body and not the department heads; therefore, the Selectmen needed to make that decision whether or not to sign the notices. He pointed out that when the Board mentioned grandfathering, he thought that he would be grandfathered as well as the Green Oak pit on Route 28 South. He thought the regulations would be for new pits coming into town. He said that this rule, with just AoT, if he had to do that he would reduce his open area so he would not have to do that, would cost him \$10,000, and for a small pit it was not feasible to spend that amount of money. He stated he was a small business and tried to be good by volunteering for his community and had done it for many, many years and felt that he got a kick in the teeth by this whole thing. Scott Williams returned to his seat as a member of the Planning Board.

Keith Babb came back to the table. He wanted to add that Green Oaks had donated to a certain sidewalk improvement program and a trail program. He allowed the snowmobile club to have access to his pit for the trail every year and he thought that he was a good neighbor.

Roger Sample asked if anyone else wanted to speak about non-case specific items.

**Virgil MacDonald MOVED to that the Board take these questions under advisement.  
Scott Williams seconded.**

A member of the public asked what the motion was, because they could not hear it. Scott Williams stated that the motion was to take this under advisement by Virgil MacDonald and seconded by himself. Virgil MacDonald thought that the Board needed the chance to answer the questions. The member of the public then asked how would the Legion get informed of the answers. Tim MacDonald asked if there was a way that the Board could make a motion so that the Legion could get answers at the next Board meeting. He asked to have the Legion put on the next agenda so things could be straightened out. Roger Sample stated that all of the cases needed to come to the Town Planner. He apologized that the Board had to sit there like dummies because they were all in favor with the Legion. He stated that all of the issues had to come to the Planning Department and that was where things would be worked out. He stated that the Board could not give them any answers because they were not cases. Scott Williams stated that if the Legion asked the Town Planner to be put on the agenda to talk about these issues, he believed that the Board could talk about the issues. Tom Hoopes stated that as a Board member, they were not allowed to talk to individuals about specific cases. If a member did, that member would have to step down from the Board while the case was being heard. He stated that all questions had to go to the Town Planner and not to the individual Board members; otherwise, they would be receiving information that other members may not be receiving and it was an unfair circumstance. Tim MacDonald stated that as a private citizen of Alton, he asked the Town Planner if the Legion could be on the agenda for the next meeting. Roger Sample stated that was not the process, but he could stop in the Planning office and the Town Planner could give him the process.

John Dever, III, came to the table. He stated that he was asked by Dave Hussey to meet with the Executive Board and he told him that he would show up at any time, any day, to discuss this issue with

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

them. He mentioned that he told Marty Chabot that yesterday. He made an offer to talk to everybody on their Board and he offered to talk to all of their members to answer any of their questions and to clarify a lot of misinformation that was going around. He let everyone know that he was not looking to shut down the Legion, Keith Babb, or Scott Williams, but there was a process, and he was in charge of ensuring the process was done correctly, because that was his job. Tim MacDonald asked John Dever, III, if there was a grandfather clause. John Dever, III, stated that he was not going to answer that question now because it was not the forum for it. He then again offered to sit down and talk to the Legion's Executive Board and their members. Virgil MacDonald stated that John Dever, III, was willing to go to the Legion's Board meeting in order to explain it all. John Dever, III, thanked the Planning Board.

Loring Carr thought that the Board was incorrect and stated that it was the Chairman that set the agenda, but the Town Planner could have some input into it. Roger Sample stated that he did not write the agenda. Loring Carr stated that if Roger Sample, as the Chairman, wanted something on the agenda, he could decide to put it on. Peter Bolster stated if there was an application in writing, it could be added to the agenda. Loring Carr stated that was incorrect, the Board could talk about issues other than what the Town Planner informed them of because they had the authority and were the governing body. Peter Bolster stated that if an outside group wanted to be on the agenda, the procedure was to formally request a consultation meeting, and then the Board could talk about what was needed, but that had to happen first. Loring Carr stated that a person could go to the Chairman and ask to be put on the agenda; it was not up to their employee to decide what the Board was going to talk about. Roger Sample asked Loring Carr what his timetable was to inform him that he wanted to be on the agenda. Loring Carr stated that Tim MacDonald just asked to be put on the agenda, and stated that Roger Sample stated it was up to the Town Planner, and that was wrong. Tom Hoopes stated that the Board could not discuss something that was not an agenda item, which was not an application. Loring Carr thought that was baloney. He then asked how the Board talked about the zoning amendments. Russ Wilder stated it was a public meeting. Loring Carr thought it was not right. Nic Strong stated that under "Other Business" on the agenda, there was "Old Business", "New Business", "Correspondence", and "Any Other Business". She explained that if someone submitted something, and it fell under those criteria, that was how stuff got on the agenda that was not an application. She stated that nothing had been submitted in order to have the Legion on the agenda for this evening. If a letter was submitted requesting under one of the categories to get on the agenda, they would get on the agenda. Roger Sample explained that was the process he mentioned earlier that people would need to talk to the Town Planner about. Russ Wilder stated that it would be helpful for the Board if it was clear what they were asking about because this issue came on tonight and it was all over the place and it was hard to decipher; it needed to be clear what they wanted to discuss. He stated that the best way to do it would be to write it down and get it on the agenda exactly what they were looking for.

Joe MacDonald came back to the table. He thought that maybe he might have misspoke. His question was the Board asked and said they wanted input, but the Board could not say anything. He did not have a problem with that. His input was that the Board members were all elected officials who ran the town and not the Town Planner, not their employees, nobody else. He stated that the Board was the one who could decide whether there was a grandfather clause or not and asked why the Legion should go out and spend \$10,000 - \$20,000 on an engineer to give them something so they can go to the Board to get on the agenda that they should not have to spend. He asked why the Legion should have to go out and spend money that they should not have to spend, when they were grandfathered. The Legion had been there for



**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

years. Roger Sample stated that unfortunately, the Board did not run the town, what they did was interpret the regulations. Joe MacDonald stated that the Board made the decisions as to what was going to happen in town; nobody else made them but the Board. Tom Hoopes stated that the Selectmen made the decisions on what happened in the town; the Planning Board made decisions on zoning and planning. Joe MacDonald stated that the Board had the right to take someone to court without the Selectmen's say so. Virgil MacDonald stated, no. Joe MacDonald stated that the Board had the right to close down the Legion and tell them that they were not grandfathered. Tom Hoopes stated that the Board had not done that. Joe MacDonald thought that was what the Board was sending the Legion letter on; the Board was telling the Legion that they had to spend thousands of dollars for an engineer to get a site plan for a business that had been there for over 20 years, and had been in town for almost 100 years. He stated that he was sick of his tax dollars being wasted on stuff like this when there was no need of it. He stated that he was not there for the Legion or the excavation pits; he was there for himself because it was his money that was going out the window, and that was not right. Tom Hoopes stated that one of the things that Russ Wilder mentioned was that the Board had no idea what they were talking about; the Board had seen no letters in writing and he had no concept of what he was talking about and why he was upset. Joe MacDonald stated that the Legion had received letters telling them they had to spend money. Tom Hoopes stated that the letter would not come to the Planning Board. Roger Sample stated to Joe MacDonald that people needed to stick to the process and that he was accusing the Board of something that they had nothing to do with. Peter Bolster asked Joe MacDonald and Keith Babb to sit at the table as Dave Hussey did, instead of standing. Joe MacDonald's point was that the Legion was receiving letters telling them they had to close, they could not do this, they could not do that, they were non-conforming, for places that had been there for years. He did not understand why his tax dollars were being spent on sending out letters, having town employees chase them around, paying a lawyer to tell the Legion they could not do it, telling the Legion that they had to spend their money to go in front of the Board, because every time the Legion spent money, the residents in town were spending money too. He informed the Board that they should investigate exactly what had to be done to stop this. He did not understand how the Board could tell someone that had been in existence for over 20 years, and all of a sudden, the Board was giving the Legion paperwork to spend \$10,000 to have an engineer come in and tell them what they were doing.

Dave Hussey came back to the table. He wanted the Board to know that when he was a Selectman, he was also on the Planning Board. He stated that the Selectmen hired John Dever, III; he did not hire them. He stated that the Board was the one to hire the Town Planner; she did not hire them. He noted that the Selectmen sat down and interviewed him, and all the time he was on the Planning Board with Ken McWilliams, Ken McWilliams never ran the Planning Board; the Planning Board ran themselves. He stated that the Board would listen to Ken McWilliams, and noted that Tom Hoopes was on the Planning Board back then, and sometimes Ken McWilliams would tell the Board that he did not agree with them. He pointed out that he heard from Scott Williams that the Board did not agree, and the Board made a motion that the Board was not going to go with what Ken McWilliams said; he said it was the same thing here. He mentioned that both Scott Williams and Tom Hoopes could vouch for that because they did it time after time. He stated that the Board did what was right for the people, and the Legion had not had their day in court. He pointed out that the Board was telling him to go back to the people, who had already informed him that the Legion had to become a "Commercial Function Facility". He asked who the Legion would go to other than court and it was not fair because the Legion should be able to state their side to the Board by saying, we really did not agree with the Planner, we really did not agree with the

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

Code Officer, the Board was allowed to say that because they were their bosses. He could not believe what he heard tonight that the Town Planner told them what to do. Roger Sample stated that the Town Planner prepared the agenda. Dave Hussey stated again that Roger Sample stated that the Town Planner told the Board what to do. Tom Hoopes stated that Dave Hussey was incorrect. A member of the audience stated that they should play the tape. Tim MacDonald stated that he asked one question and Roger Sample said that he could not do it without her permission, which was almost exactly what he said. Dave Hussey asked for a chance for the Legion to get in front of the Board because they did not belong under a “Commercial Function Facility”. He stated that he talked to John Dever, III, and was told that he had no right to go before the Board publicly and had to be on the agenda before he went. Peter Bolster stated that the Board was asking the Legion to put themselves on the agenda to come and talk specifically about the issue and the Board could override John Dever, III. Tom Hoopes stated that was not true. Peter Bolster corrected himself and stated that the Selectmen could override John Dever, III. Dave Hussey said in that case, they would go before the Selectmen. Scott Williams stated that the Board decided whether.....and Virgil MacDonald continued that the Board decided whether the charges and paperwork or anything went out to them or anybody. Tom Hoopes stated that the interpretation of the code was by the Code Officer. Peter Bolster stated that the Legion needed to have an objective discussion about the specific issues in a way in which an application was provided, that would then be put onto the agenda, and the Legion would have their time to talk to the Board and the Board would talk to them, and both parties would find a way to come to common ground. Dave Hussey stated that was what he was asking for, but was told he could not do that. Virgil MacDonald asked Roger Sample if they could make a motion to let the Legion be on the agenda for next month without having to fill out any paperwork. Scott Williams thought that was possible. Peter Bolster stated, yes, they could come in for a consultation. Tom Hoopes and Russ Wilder thought there should be a written formal request to be added to the agenda. Peter Bolster asked why. Scott Williams did not think that was needed. Virgil MacDonald stated that the Board did not need anything written because they were there asking for a consultation with the Board, and it was up to the Board to say that it was okay for them to be on the next agenda. Tom Hoopes asked what was it a consultation for because the Board needed specific questions so they could do some research. Dave Hussey asked why the Legion was being stuck into the “Commercial Function Facility” where they did not belong. Tom Hoopes stated because that was the classification that existed in the zoning codes. Dave Hussey stated that happened after they were there. Dave Hussey stated that the Legion wanted to be able to present their case in front of somebody that was going to listen to them and not just say no, you cannot do that.

**Peter Bolster MOVED to add the Legion to the next agenda for the June 19, 2018, meeting for a design consultation and other items, and to bring paperwork that specified what was being discussed so the Board would know exactly what they were being asked to do.  
Virgil MacDonald seconded.**

**DISCUSSION:**

Peter Bolster informed Dave Hussey that the Board might say that the Legion needed an expensive site plan, but they may not. Roger Sample asked about the design consultation and wanted to know if the Board was limited. Nic Strong stated that a consultation was non-binding and was a discussion in general. Roger Sample stated that the Legion was limited in what they could come in with. Scott Williams wanted to add “applicability” to the motion. Peter Bolster thought that he should add, “that

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

which applied". Tom Hoopes thought that the Board should discuss grandfathering because it did exist but not everybody achieved a grandfathered position.

**Peter Bolster amended his motion to invite the Legion to come for a design consultation and other items applicable to their particular situation, at the Board's next meeting, but come bringing something specific and submit written paperwork two weeks ahead of time that the Board can have in front of them so they know exactly what the Legion was asking them for. Virgil MacDonald seconded.**

**DISCUSSION:**

Scott Williams thought it would be good to get the paperwork to the Town Planner ahead of time. A member of the public asked when they needed the paperwork. Russ Wilder stated it needed to be submitted two (2) weeks ahead of time. Scott Williams noted that the paperwork needed to be submitted in two (2) weeks.

**Roger Sample asked the Board for a vote, the motion PASSED with all in favor.**

**DISCUSSION:**

Tim MacDonald thought that since so many things were going on with Town Hall, that the Board should invite James Sessler, Esq., Town Counsel, to the next Board meeting.

Virgil MacDonald asked why Keith Babb's Intent to Excavate was being held up. Nic Strong stated that the Board was not supposed to talk about that. Virgil MacDonald thought the Board was only not supposed to talk about the Legion. Nic Strong stated that the Board did not have a case before them on the agenda. Virgil MacDonald stated then the Board was not able to answer any questions to the public for things that were not on the agenda, because he had always been able to answer the public for things that were not on the agenda.

Keith Babb came to the table. He read the last paragraph of a letter dated April 19, 2018, which came from the Town Planner. "Please note that until such a time as the excavation permit is granted under the Excavation Regulations adopted in 2017, the Intent to Excavate will not be signed and no excavation should be taking place from this property." Virgil MacDonald noted that the letter kind of put a stop to everything. Peter Bolster asked what the Board was waiting for. Scott Williams stated that he did not get that letter. Keith Babb asked Virgil MacDonald why the Town Planner had the power to hold the intent and to tell him that the Board could not sign it; he thought the Town Planner worked for the Board. Russ Wilder stated it was because the Board did not get all of the information for his application. Scott Williams stated that the Intent to Excavate was similar to an Intent to Cut, which went to the Selectmen, not to the department heads. Virgil MacDonald stated that when the Selectmen received Keith Babb's Intent to Excavate, there was a note on it that said do not sign because of the Planning Board. Virgil MacDonald stated that he tried to bypass it to get it signed. Peter Bolster thought that Keith Babb asked for a continuance with his application because he was thinking about going deeper. Nic Strong stated that she would explain the process. She stated that the Intents to Excavate were sent to the Assessing Department, the Assessing Department would then ask the Planning Department if the gravel pit was in

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

compliance with the town regulations; her answer this year was, no. The Assessing Department would then take the form back and would not send it to the Selectmen to be signed because they were waiting for the confirmation of compliance with the town regulations. Scott Williams stated that the intents have been signed every year until this happened. Russ Wilder stated that was because the Board adopted new Excavation Regulations. Virgil MacDonald referred to the meeting when the Board came up with a 50-year license, he thought what was discussed was that the pits in town were going to be grandfathered, and that the Board was not going to go after them. He was upset because after less than a year went by, the Board was going after the pits on what the Board stated they would not do. Keith Babb stated that Robert Hussey met all the standards required of the pit at the time he made his application. Dave Hussey stated that Tom Hoopes was present for that; Tom Hoopes agreed. Virgil MacDonald stated that the Board had discussions on this when they did the ordinances and the licenses that the Board was not going to go after the pits. Scott Williams explained the process, due April 1 was a Report of Excavated Materials for the previous year; he mentioned he just received his bill in the mail and needed to pay the State. A pit owner would estimate how many yards would be excavated, and then they would fill out the Report of Excavated Materials, which was what the State based their taxes on. In addition, if the land was in current use, and if the land was excavated, it came out of current use and the pit owners would pay about \$8,000 an acre for a penalty to take it out, so now owners would be taxed twice on top of paying their regular property taxes. On April 15, the notice of the intent to excavate was then due, which was sent to the Selectmen to sign. After that process, the State would send the owners a letter of compliance that they would hang up. Keith Babb stated it was a tax certificate. Dave Hussey stated that when he was on the Board with Scott Williams when the issue of pits came up, they grandfathered the pits in town. Tom Hoopes stated that there was grandfathering in town, but what was before them was a State item. Dave Hussey thought that the Board also had to write the regulations and get them done in a proper procedure. He stated that the Town of Alton was not a self-governed town, the town was a subdivision of the State, so the town would have to go by what the State stated; therefore, there should have been a ballot vote. Scott Williams stated that during the discussions of adopting the Excavation Regulations, he asked if the regulations needed to go before the public and he was told no. Tom Hoopes stated that different regulations were handled in different manners, some could be voted on by the Board and some needed to go to town meeting. Dave Hussey stated that it indicated in the RSA that all amendments and revisions had to go to town meeting.

**Virgil MacDonald MOVED that the Board grandfather Scott Williams' and Keith Babb's excavation pits.**

Tom Hoopes stated no, that the Board should do things the right way. Virgil MacDonald stated it was the right way because the Board was not supposed to do this. Roger Sample stated that the Board was not going to discuss anything and they would take everything under advisement. He asked if anybody else had anything more they would like to add.

Keith Babb stated that the procedure to get onto the Board of Selectmen to be heard was ridiculous. He had filed an application when he received his letter and it took a Selectmen's vote to even see him, which took a month, and then he was going to be heard at the following month's meeting. Roger Sample stated that he had to stick to the process. Keith Babb stated that if there was an emergency, the Selectmen should not have to stick to the process. Roger Sample did not think that his situation was an emergency. Keith Babb stated he had two (2) jobs on the line. Virgil MacDonald stated that Keith Babb would lose

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

his livelihood. Dave Hussey stated that if Mary Pinkham-Langer drove up to his pit and did not see the approval, then she would close him down. Keith Babb stated that his pit was already closed. Peter Bolster stated that the way things worked with the Selectmen was that if someone wanted an appointment with the Selectmen, they would go and talk to the Town Administrator asking them for an appointment. Virgil MacDonald stated that was not the procedure anymore, people had to go in and fill out paperwork. Peter Bolster stated that not all of the Selectmen had to agree in order to have an appointment. If someone came in for public input, the Selectmen had to sit and hear what that person had to say, but they would not interact with them. Peter Bolster stated that Keith Babb should go and fill out the necessary paperwork to get onto the Selectmen's agenda. Keith Babb stated that he had filled out the paperwork and he was waiting for their May meeting to see if they voted that it was okay for him to be on the agenda in June. Scott Williams stated to Peter Bolster that there were two (2) Selectmen in the room and he thought that Peter Bolster should let them explain what their procedures were.

Dave Hussey stated an important question to be answered: Does the Town have a grandfather clause. Nic Strong asked if the Board wanted her to put the Excavation Regulations on the agenda for next month. She was going to put together a packet that included the chronology and the history of how the Excavation Regulations were created and adopted.

**Russ Wilder MOVED to put the Excavation Regulations on the agenda for next month's meeting, June 17, 2018, for a complete review of how they operate and discussion, and how they were enacted.**

**Tom Hoopes seconded the motion, and it PASSED unanimously.**

Scott Williams wanted the Board to let the Intents to Excavate to through. Roger Sample and Tom Hoopes stated the Board could not do that now. Russ Wilder stated he was only trying to clear the air on the regulations. Virgil MacDonald wanted to make a motion to bring Keith Babb back at the next meeting. Roger Sample asked if the Board would be able to discuss his application then. Scott Williams stated absolutely because it would be on the agenda. Nic Strong asked what the Board was bringing Keith Babb back for because his application was continued to the June meeting anyway. Scott Williams recalled that at last month's meeting, he made a motion to continue Keith Babb's application for two months, which would be next month's meeting anyways. Keith Babb asked what was going to happen to his Intent to Excavate in the meantime. Roger Sample thought that the State was not going to race down to lock his door. Scott Williams disagreed. John Dever, III, stated that he would be in contact with Mary Pinkham-Langer tomorrow morning so he could talk to her about the current situation and that the Board was working on getting Keith Babb's application approved. He stated that he was not standing down at his pit turning trucks away; he just wanted to get things resolved at the lowest level possible with the least amount of stress. Tom Hoopes asked if it was possible for Mary Pinkham-Langer to resolve something. John Dever, III, stated that he was unsure because it was a local issue. Scott Williams noted that Mary Pinkham-Langer did not have to listen to John Dever, III. Scott Williams asked if there was going to be a report to Keith Babb and himself. John Dever, III, stated that he would let them know. Virgil MacDonald asked if the intent permit had anything to do with the 60' excavation. Keith Babb stated, no.

Sherry Burley came to the table. He said she was a taxpayer in town and a registered voter. She had been a volunteer at the Legion for over ten (10) years and had been the primary person over the last (2) years doing catering for every memorial service and almost every fundraiser. She stated that she could assure

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

the Board that it costed her husband thousands of dollars this year for her to volunteer. Both she and her husband had not made a dime off anybody.

Roger Sample closed public input.

**Continued from March 20, 2018**

<b>Case # P18-04 JOBAN, LLC/Dean Puzzo, Manager</b>	<b>Map 26 Lot 10</b>	<b>Minor Site Plan Review Residential Commercial (RC) 19 Homestead Place, Suite 5</b>
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The Chairman read the public hearing notice.

No one was present for this application. Nic Strong stated that she received a letter from Anthony Costello, P.E., A.C. Engineering & Consulting, dated April 26, 2018, requesting a continuance to the August 21, 2018, Board meeting. Nic Strong stated that since the Board had already deemed his application complete, and the deadline to act on this was May 25, 2018, when the Board extended the application, they also needed to extend their deadline for action.

**Tom Hoopes MOVED to continue Case #P18-04, Jobean, LLC, Minor Site Plan Review, Homestead Place, Map 26 Lot 10, to the August 21, 2018, meeting and to extend the deadline for Board action on the application to August 21, 2018.  
Russ Wilder seconded the motion, and it PASSED unanimously.**

**Completeness Review of Application and Public Hearing if Application is Accepted as Complete**

<b>Case #P18-11 Thomas W. Varney, P.E., Agent for Keith &amp; Melissa Watson, Owners</b>	<b>Map 2 Lot 29-6</b>	<b>Final Major Site Plan Rural (RU) 128 Hamwoods Road</b>
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The Chairman read the public hearing notice.

Present was Kate Varney, agent; and Keith & Melissa Watson, owners. Kate Varney was presenting instead of Thomas W. Varney, P.E., because he had to be at the New Durham Planning Board meeting.

**Tom Hoopes MOVED to accept the application for Case # P18-11, as complete.  
Russ Wilder seconded the motion, and it PASSED unanimously.**

Russ Wilder mentioned it was easier to go down the list of items that needed to be addressed in the Planner Review. Kate Varney stated that the business would be called “ABC Childcare”. He mentioned that the revision date needed to be added to the plan; the plans were dated February 9, 2018, but there had been changes to the plan, and the date was not updated. Russ Wilder pointed out that the boundary survey did not indicate the western boundary of the lot with metes and bounds; however, the plan did show the

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

area of improvements, which were all located on the easterly side of the property. He thought that might not be an issue. The Board agreed and did not see that as a problem. He then pointed out that the handicapped parking did not show the size and layout of the handicapped symbol. Roger Sample asked if that area was going to have asphalt; Kate Varney stated, yes. Russ Wilder also noted that the checklist indicated the location of perc tests, but the test pit could not be located on the plan. Kate Varney stated that a test pit was dug in the area of the leach bed, and was shown on page two. Russ Wilder clarified that it was on page one. He indicated that the drainage report and inspection manuals and logs needed to be addressed or maybe recorded so future owners would know what was performed and they would know how to maintain it properly. Kate Varney stated that the maintenance logs consisted of a form that the homeowners would fill out for any large storms and they would keep them with their records. Russ Wilder stated that the question was if the applicants sold their property, how would the new owners know maintenance was a requirement. He suggested it could be part of the deed to the new owners so they would be aware that maintenance had to be performed. Nic Strong stated it could be added as an addendum to the deed or a covenant. Peter Bolster asked about the infiltration basin; Scott Williams stated it was for stormwater runoff. Russ Wilder pointed out that, in general, this was how the Board wanted to see this operate to protect the lake, and they had to be operated properly in the future. Virgil MacDonald thought that if someone bought this property and changed it back to a residential home, that it was unfair that a resident would have to perform this function. Tom Hoopes noted that the issue was that the discharge from the property could not increase greater than what was original. Russ Wilder noted that even if it were residential, they would have the same issue.

Russ Wilder stated that the reports had been sent to the Town Engineer for review and once the escrow amount was in place, that review would commence. He then asked about fire protection, and noted that there were no comments received from the Fire Department. He then read from the Planner Review that noted that the Board might require adequate fire protection measure to ensure safe access to and around the buildings and site for firefighting purposes after recommendations by the Fire Department. Scott Williams shared that there was another level that the applicants would endure, and that was the State inspection. Keith Watson stated that the State and Town would inspect. Scott Williams stated that the loading requirements of how many people could occupy the building would dictate the egress. Keith Watson stated that the Fire Department did a preliminary walk through and they thought that the egresses were covered, there was a safety ladder for upstairs, there were adequate windows for the egress and there was a front and rear door. He did note that the Fire Department wanted carbon monoxide detectors installed; Keith Watson stated they had added those already.

Russ Wilder asked about a traffic impact analysis. He note that the Planner Review suggested that the Board should talk about location, projected trips a day, the proposed parking, and driveway to see if there was a need for a more formal study. He thought that at the Design Review, the Board had talked about the fact the applicants had a narrow 10' wide driveway, but they widened it to 20' on the revised plan. He thought that it would be okay because there was not a ton of people coming in and out of their property. Keith Watson agreed and thought that they overdid the driveway, but they would go ahead with what the Board preferred.

Russ Wilder noted that the septic system was currently in failure. He referred to the Planner Review that noted that the applicants had received and had applied for approval as a residence to fix the leach field. Kate Varney shared that the septic system had been approved by the State and the reason why they did

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

***APPROVED***

that was because it was in failure and they just wanted to get the situation fixed quickly. She also noted that if the property was going to be turned into commercial property, the well needed to be moved. If you looked at the plan, the well radius went off the property, and the State had a requirement for commercial property that the well radius had to be on the subject property. Keith Watson mentioned that the well would have to be moved roughly 15 feet and would probably end up tapping the same vein, which would cost roughly \$8,000. Kate Varney stated that when the leach bed turned into commercial, it was already sized correctly. Russ Wilder mentioned that with the well being moved and the leach bed being rebuilt, that would take care of everything. Scott Williams mentioned that their abutter could sign a well radius. Keith Watson stated that this project was going to take a lot longer than they had anticipated with the septic and well issues. Scott Williams noted that the applicants could ask their abutter to sign a well radius easement. Keith Watson stated that would require them to move their septic tank and to hire a lawyer to create the easement. Kate Varney mentioned that the daycare rules would not allow the septic tank to be within the well radius.

Russ Wilder noted that the plan did not indicate that parking spaces would be striped, which should be indicated on the plan. He noted that the Planner Review indicated that there would be six (6) arborvitae in front of the parking area; the Board thought that was sufficient. He shared that the plan showed the type and location of the exterior lighting. Scott Williams mentioned that the Board wanted to keep the color of the light down to 3000K or less for lighting, and pointed out that they were proposing 6000K. The applicants needed to change the color of the light and to make sure they were downlights instead of floodlights. Russ Wilder then went over stormwater drainage and erosion control. He mentioned that the Planner Review indicated that the stormwater report and inspection logs had been sent to the Town Engineer for review.

Russ Wilder went over the screen buffers; the lot looked well wooded. He also noted that a permit would be required for the signage installation. He shared that the hours of operation would be from 7:00 am – 6:00 pm. The Police Department and Conservation Commission did not have any concerns, and the Code Enforcement Department noted that the ZBA Special Exception had been granted on February 1, 2018. Russ Wilder stated that there was no parking allowed on Hamwoods Road.

Russ Wilder went over the possible subsequent conditions for approval. The Board should consider requiring the following items: removal of the existing swimming pool; construction of the infiltration basin with swales; the driveway expansion and parking area construction; installation of drip edges along the house; installation of a new septic system; relocation of the well or submission of an easement for the well radius; and the submission of an As-Built and a sign off from the design engineer prior to issuance of a Certificate of Occupancy. Keith Watson stated that they were removing the existing swimming pool and they were going to relocate the well because they could not obtain an easement for the well radius.

Russ Wilder talked about the possible timeline for the active and substantial development and building. He asked how long of a period of time the project would take. Keith Watson stated that he was hoping to get things done by the fall, but because of all the extra things they had to take care of, it would probably be at least a year to get this done with all the requirements. Russ Wilder stated that there was a 24 month time period to begin active and substantial development or building on the property in order to qualify for the five (5) year vesting against changes to the Zoning Ordinances. Tom Hoopes shared that vesting showed that an individual had made an substantial investment that they would go forward with their



**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

project. Nic Strong stated that the substantial completion of improvements had two thresholds. Within 24 months, the applicants needed to do something substantial enough to grandfather them to be vested for five (5) years. Before the five (5) years was up, the needed to substantially complete, then they were vested against changes to the regulations forever.

The Board determined that Active & Substantial would be the driveway reconstruction, installing a new septic system, and installing stormwater within 24 months. Keith Watson stated that they were waiting for some quotes on the septic system and the work for the driveway consisted of cutting down several trees. Russ Wilder stated that if the applicants accomplished those items, the application approval would be valid within 24 months. Substantial completion of improvements would be to complete the rest of the project and complete the site plan. Keith Watson was hoping that before the 24 months were up, the daycare would be completed. Russ Wilder noted the completion of the site plan within five (5) years would be the second threshold.

Russ Wilder brought up Construction Observation services; the Board did not think that was needed.

**Peter Bolster MOVED that after due hearing, the Alton Planning Board hereby approves Case P18-11 for Keith & Melissa Watson, 128 Hamwoods Road, Map 2 Lot 29-6, for a Final Major Site Plan Review to convert an existing dwelling from living space to a Group Child Care Center under Article 400, Section 401, Institutional Uses #6 of the Zoning Ordinance, with the following conditions:**

**CONDITIONS PRECEDENT**

**The following conditions precedent must be satisfied prior to the Planning Board Chair signing of plans:**

- 1. Submission of revised plans in the number required by the Site Plan Review Regulations and that include all of the checklist corrections, any corrections as noted at this hearing and any corrections that arise from the Stormwater Management Report review by Northpoint Engineering, LLC.**
- 2. Addition of a note to the site 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 site plan prior to plan signing by the Planning Board Chair: This site plan contains a total of X sheets: [to be listed and dated by the applicant on the site plan itself]. In combination these plans constitute in their entirety the site plan as approved by the Town of Alton Planning Board. All sheets are on file at the Town of Alton Planning Department.**
- 4. Addition of a note to the site plan prior to plan signing by the Planning Board Chair: This site plan is subject to the Conditions of Approval itemized in the May 15, 2018, Notice of Decision on file at the Town of Alton Planning Department.**

5. **Receipt of approval from Kevin Leonard, PE, Northpoint Engineering, LLC, of the Stormwater Management Report and Inspection and Maintenance Manual and Logs prior to plan signing by the Planning Board Chair.**

**SUBSEQUENT CONDITIONS**

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

1. **All site improvements are to be completed as per the approved site plans.**
2. **Prior to the issuance of a Certificate of Occupancy for the Group Child Care Center the swimming pool shall be removed, the infiltration basin with swales shall be constructed, the driveway expansion and parking area shall be constructed, the drip edges along the house shall be installed, the new septic system shall be installed and approved for operation and the well relocated, as well as the submission of an as-built plan and sign off by the design engineer.**
3. **The hours of operation for the Group Child Care Center shall be 7:00 am – 6:00 pm, Monday through Friday.**
4. **The applicant shall comply with all of the Town of Alton’s Site Plan Review Regulations.**
5. **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.**
6. **A site plan 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.**
7. **Once any and all conditions of approval have been met and the Chairman of the Planning Board or his designee signs a site plan, the applicant has twelve (12) months from the date of signing to start construction and, unless a different schedule is approved by the Board, must complete construction within five years.**
8. **Site plan approvals that have not started construction within twelve (12) months shall automatically expire, at which time no building permits shall be issued, unless an extension has been formally requested and granted by the Board. Normally the Board shall not grant more than one extension per project, shall only grant an**

extension for reasonable cause, and shall normally not grant an extension for more than six months.

9. No site may be occupied or used until a Conditional or Permanent Certificate of Occupancy Permit has been issued by the Code Official in accordance with Section 1.22 of the Site Plan Review Regulations.

**ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND SUBSTANTIAL COMPLETION OF IMPROVEMENTS:**

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ ordinance changes: **construction of driveway and septic and drainage work;**
2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting: **completion of all remaining site plan improvements.**

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 that are required prior to signing the site plan. 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 per Section 1.14 of the Town of Alton Site Plan Review Regulations.

Virgil MacDonald seconded the motion, and it PASSED unanimously.

**Conceptual Consultation**

<b>Case #P18-12 Mark Poirier/Grey Light Realty, LLC, Owner</b>	<b>Map 63 Lot 13</b>	<b>Conceptual Consultation Lakeshore Residential (LR) 1602 Mount Major Hgwy.</b>
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The Chairman read the case into the record.

Present was Mark Poirier, owner.

Mark Poirier came to the table. He stated that what he was proposing to do at the former William Tell Inn was to gut the inside. He noted that before he bought the property, he walked the site with John Dever, III, and Evan Turcotte, Deputy Fire Chief, to make sure that it was a decent investment and they were not going to run into "buzz saws". He mentioned that what normally happened with renovations of a 100-year old building was that the electrical and HVAC needed to be completely replaced, which he figured needed some work.

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

Mark Poirier shared that his proposal was to construct an outdoor deck, primarily for acoustic live music. The deck he was proposing would be behind the building, which was indicated on the plan next to where the two (2) bathrooms were located. The deck would start at sill level, which made sense because there would be access to the bathrooms in the basement. Furthermore, where the stairs went down, he had proposed an ADA compliant ramp that would lead into a new doorway system. The first floor of the building would be ADA compliant and accessible. Mark Poirier noted that he had one direct abutter to the North, which had a house that was down low. The orientation of the building coming off Smith Point Road, if you went 40' before you got to the driveway, you would be in the front parking lot. There used to be a hotel where the parking lot was currently located. The houses out back of the building were set back quite a ways down the slope, which had several elevations leading to the shoreline. There were access roads to the site, which were Railroad Avenue and Smith Point Road. The West side had about 355' to the private way and the house across the street was about 20' away. The property was a fairly well wooded area. The deck would stand out about 40' off the building and would not change the exposure to either of the lots to the West. Scott Williams noted that the stage would be set up so it would face the back of the building and not out towards the lake. He noted that State regulations required him to have a 6' fence minimum around the deck and where they had an egress. The deck would be down 6' from the level of the parking lot on the West side because of the topography. Virgil MacDonald asked if the proposed deck was going to be steel or wood. Mark Poirier stated that they were proposing one foot on center 2' x 12' diamond piers. He noted that when he bought the property, the main septic was undersized and suspect; it was built back in the early 1970's, made out of cinder block, the levels were down but not at the level it should have been after three (3) years of non-use. He put in a new 1,600 gallon septic tank. Scott Williams asked about grease traps. Mark Poirier stated that he had two (2) where the employee parking lot was where the old wall and the old motel used to be to the Southeast, there were two (2) that were still in great shape. The leach field was located at the Southwest corner.

Mark Poirier shared that the deck would hold a smaller service bar with a magic chef kitchen, serving foods like chicken and fish sandwiches, a cold station, burgers, bratwurst, and hotdogs. He was hopeful to have this completed around Memorial Day weekend or Columbus Day. Scott Williams asked if there was going to be a roof, or an awning. Mark Poirier was thinking about a roof, but he probably would not do it now.

Mark Poirier shared with the Board that his primary purpose for this deck was to have people come up to play country music, because he had a direct pipeline into Nashville. He had several people that wanted to come up from the South to play in the Northeast. He pointed out that he knew he could be playing music until 10:00 pm, but he did not want to be that restaurant. He was planning to close the music and the deck down at 8:00 pm, unless there was an unseasonably nice night, he might serve people a regular dinner out there; although, running the wait staff downstairs did not make much sense. He was looking to be able to celebrate mountainside, lakeside living and to take the food choices that were offered in the area up a notch, but still be approachable. Mark Poirier was going to renovate the second floor to accommodate the overflow from the restaurant, and have a place for functions.

Russ Wilder wanted to address noise and lighting because of the neighbors down in the back. He thought that parking might be a problem too if the restaurant was packed. Mark Poirier thought that there would be peak times, but there was the grass area that they could use for overflow. He shared that he was having a hard time hearing back from paving companies. He thought that he had enough room for approximately

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

26 cars, and would have about 20 employees. If the first parking lot was properly paved and lined, it would hold many cars. The parking lot to the West, which was currently gravel, when properly laid out, could hold quite a few cars. Russ Wilder pointed out that the parking lot was right on a corner and there was a lot of traffic that drove fast by that area. He also asked about where the food service truck would be pulling in. Scott Williams noted that there was a service driveway that led down below. Russ Wilder questioned pervious surface and runoff, which could be an issue. Mark Poirier stated that there were two areas that were already paved. Russ Wilder clarified that Mark Poirier was not going to pave any additional areas that were not already paved; Mark Poirier stated, that was correct. He was actually going to take out some paving and put in some landscaping steps. Peter Bolster asked what the metric was that the Board required for parking spaces at restaurants. Tom Hoopes asked if Mark Poirier had been before the ZBA, and wondered if the expansion of a non-conforming structure would be allowed. Nic Strong stated that the structure was conforming, it was the use that was non-conforming; therefore, what was required was a Special Exception for a non-conforming use, and a Site Plan. Tom Hoopes wondered if the expansion of the deck was the expansion of a non-conforming use. Nic Strong stated that in the Planner Review, it specified the sections of the Zoning Ordinance, Section 320 – Non-conforming Uses, #7. Expansion of structures for non-conforming uses beyond existing building dimensions. The proposal was an expansion of a structure for a non-conforming use, because restaurants were not permitted in that district.

Tom Hoopes asked Mark Poirier if he had a chance to speak to his abutters. Mark Poirier stated that he had spoken to two of them, and through a third party, a third abutter. He spoke to the abutter to the left of the property during a snowstorm this past winter and he did not seem to have any issues at the time. He still needed to talk to another abutter, but it was a rental property up for sale, so he needed to find out who owned it. Another owner indicated thorough a mutual acquaintance that he was all for it. Tom Hoopes mentioned that he did not see a problem with the concept of dining outside, he thought the problem would come from the outside music. Mark Poirier stated that if he could not get the approval on the deck with the music, then he was not going to go through with it. Scott Williams mentioned that back when that building was the Glen Gables, the whole outer dining room area was screened in and they had trumpet players. Tom Hoopes thought there might be a problem with some of the neighbors. Peter Bolster pointed out that there would be no music after 8:00 at night. Mark Poirier shared that the use of the deck would be from noon to 8:00 pm; the restaurant would close at 10:00, and the cleaning crew and lights out at 10:30.

Russ Wilder referred back to the Planner Review and it noted that the applicant should be informed that the Planning Board may consider at the time an application was submitted that there was a need for special studies to include a traffic study. Scott Williams stated it was a State road. Virgil MacDonald stated that the driveway had always been in existence, so there should be a permit for it.

Russ Wilder stated that once an application had been submitted, a public hearing would be held and notice letters would be sent to abutters. He asked what the timeline was for construction. Mark Poirier thought the project could be done in two (2) weeks, start to finish, but he had come across some issues during the winter, which messed up his timeline.

Russ Wilder asked if the Board could be anticipating an application from him at the next meeting. Tom Hoopes mentioned that Mark Poirier needed to go to the ZBA first. Mark Poirier asked about which type

**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

of site plan application he needed to submit. He referred to State and local occupancy laws, and explained that occupancy could be defined in two (2) different ways. The overall deck was just a bit over 1,500 s.f., which equated to a maximum of 100 people seated. If he were to build a 750-s.f. deck, it would equate to roughly 94 people with standing room only. He preferred to get an exemption to avoid a Major Site Plan Review because the project was taking up much more of his funds than anticipated. He wanted to submit a ZBA application, but mentioned that he wished he had the opportunity to talk to the ZBA, just as he had done with this Board. Nic Strong noted that the ZBA was not a discussion board, they were an appeals board. She further noted that if Mark Poirier did not want to do a Major Site Plan Review, he could request a waiver. Mark Poirier realized that what stemmed the need for a Major Site Plan Review was the square footage. Scott Williams pointed out that another issue would be septic loading. He asked how many seats would be served with paper plates and plastic utensils, because if that were the case, the gallons per day would cut in half. If Mark Poirier served food with paper on the deck, the septic loading would be 20 gallons a day, per seat, and if he served food using china inside the restaurant, the septic loading would be 40 gallons a day, per seat. Mark Poirier needed to get the septic loading information, because he was not sure how much it could handle. Scott Williams mentioned that there was one parking space per three (3) seats required per the Site Plan Regulations. Mark Poirier stated that if he had to, he was willing to build a smaller deck if he had to apply for a Major Site Plan Review, but it would not quite offer the atmosphere he was looking to create.

Mark Poirier noted that his next step would be apply for a Special Exception. Nic Strong informed Mark Poirier that the ZBA application had two sections; the first section was an application guide that would help assist him in filling out the form; and the second section was the application. She further noted that Zoning Ordinance, Section 520 dealt with the Special Exception criteria. She encouraged him to use the checklist, which was a list of things that he would have to submit. Scott Williams thought that he would be in favor of a Minor Site Plan Review, because it was an incidental use. Mark Poirier stated that he was increasing the size of the square footage of the building by 1,600' for about four (4) months out of the year, which was about 30% of the year. He asked what the timeline was once he submitted his ZBA application. Nic Strong stated that there was a list of meeting dates and deadlines for submission on the Town's website and it was posted in the Planning Department. She informed him that he would submit his site plan application separately to the Planning Board, which had its own list of deadline dates. Scott Williams shared that the Planning Board met on the third Tuesday of the month, and the deadline for submission was three (3) weeks before the meeting. Mark Poirier was not exactly sure if he was going to build the deck this year or not, but was hoping to open the restaurant anyways by mid-June, or by the 4<sup>th</sup> of July.

**Design Review**

<p><b>Case #P18-13 James Callahan, Esq., Agent for Continuum Health Services, Inc., Applicant</b></p>	<p><b>Map 21 Lots 5-3, 5-4, and 5-5</b></p>	<p><b>Design Review/Major Subdivision Lakeshore Residential (LR) 142 &amp; 144 Hopewell Road</b></p>
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**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

**APPROVED**

Nic Strong shared that James Callahan, Esq., requested to withdraw this case after he withdrew his Appeal to an Administrative Decision and received denial for his Variance from the ZBA on May 3, 2018.

**Scott Williams MOVED to accept the withdrawal for Case # P18-13, as requested.  
Peter Bolster seconded the motion, and it PASSED unanimously.**

**Other Business:**

**1. Old Business:**

**2. New Business:**

**3. Approval of Minutes:** April 17, 2018, Planning Board Meeting

**Tom Hoopes MOVED to accept the minutes of April 17, 2018, as presented, without prejudice.**

**Scott Williams seconded the motion, and it PASSED unanimously.**

**4. Correspondence for the Board's review/discussion/action:**

- a.** Received an application dated May 8, 2018, from Dave Hussey, who is interested in sitting on the Planning Board as an Alternate. The Board is to act upon this.

Scott Williams thought that Dave Hussey was a good member when he had previously been on the Planning Board. Virgil MacDonald agreed. Tom Hoopes stated that he had conflicts with Dave Hussey in the past. Virgil MacDonald thought that was a good thing. Tom Hoopes stated that there were times when he was a Selectmen, he did bully people in the front office. Roger Sample stated that he had seen the same thing when Dave Hussey was before the Board. Tom Hoopes stated that if Dave Hussey were to bring anything before the Board, he would have to step down from the case. Tom Hoopes further noted that maybe the Board should talk to Jim Sessler, Esq., Town Counsel, about whether a member should just step down from a particular case if they were involved in it, or step down for the whole meeting. Tom Hoopes noted that in the past, Jim Sessler, Esq., told Cindy Balcus that if she had to present something to the Board, she had to step down for the evening. Scott Williams thought that maybe Jim Sessler, Esq., was not always right. Virgil MacDonald agreed.

**Virgil MacDonald MOVED to accept Dave Hussey's application requesting to be an Alternate member of the Board.  
Scott Williams seconded the motion.**

**DISCUSSION:**

Russ Wilder wanted to know how many positions were open and how long the terms were. Nic Strong stated that there were five (5) alternate seats available, each for three-year staggered terms. Peter Bolster thought Dave Hussey should sit in on the May 30, 2018, Right-to-Know meeting with Jim Sessler, Esq. Russ Wilder suggested making him an alternate for one year, and after that one year, make a determination then to keep him on longer. Peter Bolster thought that if he was coming on as an alternate, and if several people were calling him regarding active cases, the Board should require him to be refreshed on the conflict of interest issue.

**Russ Wilder motioned to have Dave Hussey sit as an alternate for a one-year term, ending on May 14, 2019.**

**Tom Hoopes seconded the motion, and it PASSED unanimously.**

**5. Correspondence for the Board's information:**

- a.* Letter dated April 23, 2018, from Kevin Leonard, P.E., Northpoint Engineering, Inc.; letter dated April 23, 2018, from William S. Stack, P.E., Steven J. Smith & Associates, Inc.; and letter dated May 4, 2018, from Kevin M. Leonard, P.E., Northpoint Engineering, LLC, re: Alton Self Storage.

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

**Public Input on Non-Case Specific Local Planning Issues**

Nic Strong wanted to remind the Board about the Right-to-Know meeting with Jim Sessler, Esq., Town Counsel, which was scheduled for May 30, 2018, at 6:00 pm.

Tom Hoopes shared with the Board that he received a phone call last night about the subdivision that was approved on Route 11D. He called Nic Strong the next morning to let her know that the gentleman was coming into the office to speak with her. Virgil MacDonald thought that the Board had only approved the lot to be split into two (2) lots. Scott Williams thought that the issue was the width to length ratio. Tom Hoopes was wondering if the ratio started with the 75' on the road, or would the ratio be considered from the distance in the back, and how would it be averaged out. Peter Bolster stated that the new ordinance called for 75' on the road, but it still required a set number of acres of land. Tom Hoopes stated the regulations required 30,000 s.f. He noted that Route 11D divided two section of the Lakeshore Residential district, and why should one side of the road be 30' frontage, and the other side be 150' frontage; it was not equal. He further noted that the Board changed the frontage to be fairer to the townspeople. Virgil MacDonald stated that people were complaining because they were not happy that houses could be built closer to their existing houses. Tom Hoopes stated that the Board had no control where people would be building their houses. Virgil MacDonald stated that people would not normally build their house right next door to their neighbor if they had two (2) acres of available land. Peter Bolster stated that someone would have to come up with a Warrant Article next year to rescind the regulation. In response to a question from Peter Bolster, Nic Strong stated that amendments to the Zoning



**TOWN OF ALTON PLANNING BOARD  
MINUTES 2018  
MAY 15, 2018**

***APPROVED***

Ordinance and Building Codes went on the ballot for a town vote, and the Planning Board adopted Subdivision, Site Plan, Driveway, and Excavation Regulations.

**ADJOURNMENT**

**At 8:49 p.m., Russ Wilder MOVED to adjourn.  
Scott Williams seconded the motion, and it PASSED unanimously.**

The meeting adjourned at 8:49 p.m.

Respectfully submitted,

Jessica A. Call  
Recording Secretary

Minutes approved as presented: June 19, 2018