

**TOWN OF ALTON
ALTON ZONING BOARD OF ADJUSTMENT
Approved
MEETING MINUTES
JUNE 5, 2008**

Members Present: Timothy Morgan, Chair
David Schaeffner
Marcella Perry
Paul Monzione

Others Present: Stacey Ames, Planning Assistant
Krista Argiropolis, Recorder

I. CALL TO ORDER

T. Morgan called the meeting to order at 7:03 PM.

II. ROLL CALL

T. Morgan introduced the Board members. He noted that Tim Kinnon was on vacation.

Sharon Penney, Town Planner, is also on vacation.

III. APPOINTMENT OF ALTERNATES

No alternates were appointed.

IV. STATEMENT OF THE APPEAL PROCESS

T. Morgan read the Statement of the Appeal Process.

V. APPROVAL OF AGENDA

There were no changes to the agenda.

MOTION:

P. Monzione motioned to approve the agenda and D. Schaeffner seconded the motion. The motion passed by unanimous vote. (TM, MP, DS, PM)

VI. NEW APPLICATIONS

a. CASE# Z08-12, MAP 28; LOT 11, AREA VARIANCE RYAN HEATH, ROUTE 11D & WOODLANDS ROAD

S. Ames read the case into the record. This is an application submitted by Melissa Guildbrandsen on behalf of applicant Ryan Heath to grant an area variance to allow a single family residence that is set-back ten feet from the property lines on all sides, including the roadway frontage/sidelines of Woodlands Roads and Route 11-D.

D. Schaeffner asked if M. Guildbrandsen had a problem with him serving as a member on the Board and she responded that she did not. She stated that they did not have a problem serving with a four person Board.

M. Guildbrandsen reported that the land is a triangular shaped piece of land and was purchased by R. Heath from the town. She spoke about Woodlands Road and the property lines. She noted where the proposed driveway would be located. She gave copies of the old surveys of the property to the Board for review, noting that Woodlands Road had been relocated and showed how the road had been changed. There is an existing set back from Woodlands Road. She stated that the variance they're asking for is not from the right of way and noted that the land was very steep and not buildable. She spoke about the houses in the area that were erected before the setbacks and felt what they were asking for was in character with the area. She spoke about the design of the septic system, reporting that Tom Varney felt that they would have no trouble placing a septic system on the property.

R. Heath spoke about the design of the septic system. He noted that the septic system was designed for the wrong property at the time. He clarified that the property was defined.

M. Guildbrandsen stated that what they were asking for was a more reasonable sized home to be placed on the property, recognizing that the lot is a small lot. The proposal is a 24' x 36' home. She spoke about the layout of the home. She spoke about the area variance criteria and the size of the property. She spoke about the lot, houses in the area, and the proposed use of the property. She felt that granting the variance would be within the spirit of the application.

R. Heath spoke about the layout of the home on the land. He felt that it would fit in with the topography of the lot.

There was discussion about the ownership of the property. R. Heath is not the owner of the property but is in a buyer agreement with the owner. M. Guildbrandsen noted that they are requesting a ten foot set back from each property line, rather than a twenty-five foot set back. Michaels Myers is the owner of the land. The title defect on the land was resolved. The land was bought from the Heidke Family to the town. The legal description was drafted. The lot was always depicted correctly on a tax map. M. Guildbrandsen spoke about the history of the deed, noting a plan from 1973, which shows the old location of Woodlands Road.

M. Perry asked if there was a septic design permit or driveway permit yet and R. Heath responded that they did not have that yet because everything was hinging on this variance. R. Heath reported the house would have two bedrooms.

P. Monziona spoke about the comments made by Code Enforcement Officer, who felt the property was too small for residence or a septic. He asked if the Code Enforcement Officer was

dealing with the lot, as they understood it today. R. Heath reported he was spoken with the Code Enforcement Officer that day (6/5/08) who was not aware that the deed had changed. P. Monziona stated he was just trying to give due input to the comments made by the Code Enforcement Officer and Planner. R. Heath reported that Scott Williams had brought a surveyor to the property who found that there was a problem with deed and that Old Woodlands Road was found.

P. Monziona clarified that the requested variance would be for two sides of the house to be ten feet from the boundary lines. He spoke about the requirements of a single-family home being placed on the lot and felt that permits needed to be in place. R. Heath felt that everything hinged on the decision of the Board tonight and felt that it was “backwards” for the permits to be in place before the variance was granted.

P. Monziona asked what was making the lot non-conforming and R. Heath responded that the square footage of the lot, as a whole, made it non-conforming.

D. Schaeffner stated that if they could prove they could get a state approved septic system on the property that would part of the condition for approval of the variance. He spoke about his experience as a developer, stating that this would be evidence of the property being a buildable lot.

M. Perry asked if the plans were the ones that S. Penney had noted and the ones from 1979 were the ones used when the planner made his determination also. S. Ames responded that she didn't know. S. Ames read the planners comments into the record: **The two road frontage variances requested must be considered carefully in context of the lay of the land. The topography of the parcel off of the Route 11D boundary and, in particular, the Woodlands Road boundary, presents grade challenges for driveway location and drainage. The very small size of the parcel and its triangular shape constrain available septic area. Proposed house (864 SF) would be two-thirds located within two frontage setbacks.**

T. Morgan asked about the set back of the house from Woodlands Road and M. Guildbrandsen felt it was approximately forty feet. The house would be about twenty feet from Route 11-D. The house would be raised up to the height of the traveled way.

PUBLIC INPUT:

Harold Finathy, an abutter to the property, spoke against the variance. He stated he did not see a hardship here and felt that the lot could not be created by anyone but the Town of Alton. He stated he had donated the land at the other end of the road. He spoke about the property that had been used to straighten Woodlands Roads. He felt the Board should stay consistent with set backs. He spoke about the history of the lot and noted it was bought for \$60.00. He felt it shouldn't become a buildable lot unless it met all of the requirements. He spoke about the other houses on Route 11-D that were grandfathered in because there wasn't a planning board when the houses were built. He spoke about the rules of the planning board and felt they should be followed.

Jeff Canther, an abutter of the common boundary of the triangular piece. He reported his house was built in 2001. He stated he had met Mr. Myers, who had tried to sell them the property to get rid of it. He reported they were told it was an unbuildable lot. He read from a letter from a previous building inspector who had stated that the construction of a house was prohibitive

because a state approved septic system couldn't be placed on the property. He stated that some grandfathering had been given to the previous homes in the area and that this was an 80% deviance from the standards. He stated this wasn't just some small variation. He stated it wasn't consistent with the lots and homes on the road. He felt that the positioning of the house on the lot would be a safety hazard and spoke about his safety concerns. He felt it could present a problem. He noted that the well radius and the well drilling would be right on the boundary and felt it would go over onto his land. He noted there was a large drainage culvert was on the property but didn't know how much that would drain. He felt it would decrease the property value of his property. He felt the lot didn't conform and wasn't a buildable lot.

Paul Kessagario, an abutter, 352 Woodlands Road, reported that the lot was 0.17 acres and that was why it wasn't a conforming lot. He reported that he had two acres and had to work to get his house, septic, etc. to fit on his land. He felt that house looked like it was "squeezed in" and noted a house by the landfill that looks out of place. He stated that you could put a house on any lot if people looked the other way. He felt that Heath had doubts himself because they hadn't gotten a driveway permit or approved septic plan yet. He stated that if there was any trace of land that should be in conservation that lot was it. He spoke about a pond and drain that came through the land and noted that when the vegetation was cut from the land that there would be flooding problems with the road. He felt this wasn't a good location and urged the Board not to let this go through. He spoke about the comments that M. Guildbrandsen had made about the lot being "small" and "tiny". He stated that his biggest concern was with the vegetation that would be cleared from the property. He spoke about the hazards with Woodlands Road traffic and felt the house could cause problems.

Laurie Boyce, Representative, spoke about the variance and stated this was not a small change. She asked if there were any questions.

Tony Kessagario, an abutter, asked if anyone from the Board had looked at the lot. He spoke about the height of Woodlands Road and Route 11-D. He stated the land would need to be filled in to make the proposed house at street level. He spoke about water flow on the land and the cutting of vegetation. He stated that this is a very nice neighborhood and felt that a two bedroom house would stand out because most houses were four bedroom homes.

Kendra Canter, an abutter, spoke about the culvert that goes under Route 11-D. She spoke about the water flow and asked what the impact would be. She asked why there would be a variance if this could be done because there was no hardship. She asked where the property owner was that night. She reported she had opinions about the variance from another abutter who was in Florida taking care of a family situation. The opinions were given to S. Ames. K. Canter asked D. Schaeffner what his relationship was to Attorney Guldbrandsen.

R. Heath stated this was on-record as a non-conforming lot and being very small but that in 1995 the corrected deed didn't exist. He reported the deed changed in 2006. He stated there was a mistake made when the lot was deeded and Mr. Myers was stuck with it. He reported the culvert was not on the lot and there wasn't a lot of vegetation on the lot because there was pavement on the lot. He spoke about the railroad bed on the property and stated he didn't know how the water got over the rail bed to the pond/swamp. He stated the he didn't apply for a septic plan because he had doubts because there is information they have gathered about the lot. He stated they were there asking for the variance because the house was different from the other houses on the lot.

M. Guildbrandsen read from 320.C.2 and stated that the Board shouldn't be swayed by the abutter's comment. She stated that the proposed two bedroom home would fit with the character

of the neighborhood than a tiny loft home. She stated that Mr. Myers wasn't there that night because she had told him that there wasn't anything that he needed to add. She stated that the Board had the right to exercise their legislative discretion. She felt the hardship was the size and location of the lot. She addresses some of the other issues that had been raised, such as road frontage. She stated they were asking for relief from the Board so that they could build a better home on the lot.

P. Monziona stated the applicant did not supply a design of the home to the Board but that the applicant was actually seeking to make this a buildable lot. He stated that the request for the variance would make the lot more non-conforming and stated that concerned him. He spoke about 320.C.2 and stated he didn't know anything about a driveway permit or septic permit. He stated he was concerned that the Town Planner and Code Enforcement Officer were looking at something different and felt the Board should know their input on this lot.

M. Perry stated this was a unique lot, in the configuration. She felt the variance and non-conformity was excessive. She stated she agreed with P. Monziona. She felt that if the Town Planner and Code Enforcement Officer were not giving their input on the correct plan, that they should get their input.

D. Schaeffner agreed with M. Perry's comments.

T. Morgan stated their concerns dealt not with driveway or septic but with the requirements and noted this was a sixty percent change. He spoke about his concerns of the magnitude of the request.

D. Schaeffner felt that if the septic plan was approved that would show this was a buildable lot. He spoke about this being a ten foot set back for a regular property line and felt that there could be one set back but because there was a roadway it would be twenty-five feet. He stated that if there was more evidence that this could be done acceptably but agreed that this was a buildable lot.

M. Perry felt that this exceeded what was allowed and the anticipation of what their role was as the Zoning Board of Adjustment.

T. Morgan felt the Planning Board set the standards for the town and the Zoning Board should enforce the standards.

D. Schaeffner asked when the lot was created. M. Guildbrandsen noted it was created between 1976 and 1979. The property was sold by the town in 1994. D. Schaeffner felt that the property shouldn't have been sold.

M. Perry felt the lot was a buildable lot but not what Heath was asking.

P. Monziona stated that there was an initial burden of showing that permits could be obtained to prove the lot was suitable for building. He stated he wasn't sure that what they were really demonstrating there was a need for a specific building, as in the hardship criteria, and felt that they were lacking information because they had no input from the Town Planner or the Code Enforcement Officer. He stated it was important to him to know that this would be a buildable lot. He didn't feel the demonstration was made that it met the criteria of 320.C.2.

M. Guildbrandsen felt that a continuance would be helpful. She stated she didn't think the Town Planner had known there was a deed change. She felt a continuance would help and that a meeting would help.

MOTION:

P. Monziona motioned for a continuance for Case# Z08-12, so that the input of the Code Enforcement Officer and Town Planner could be provided and so that the Board could consider the information provided and T. Morgan seconded the motion. The motion passed by unanimous vote. (TM, MP, DS, PM)

The continuance is scheduled for July 10, 2008.

VII. OTHER BUSINESS

a. APPROVAL OF MINUTES

The Board reviewed the minutes of May 1, 2008. M. Perry, T. Morgan and P. Monziona noted some typographical errors.

MOTION:

M. Perry motioned to approve the minutes of May 1, 2008, as amended, and T. Morgan seconded the motion. The motion passed by unanimous vote. (TM, MP, DS, PM)

b. NEW BUSINESS

S. Ames spoke about the Lakes Region Planning Commission 2008 Annual Meeting on June 23. She asked for Board members to contact her if they were planning to attend.

c. CORRESPONDENCE

S. Ames presented a letter from someone requesting his personal information be struck from the meeting minutes of 1995 due to safety concerns.

MOTION:

T. Morgan motioned to strike the personal information from the meeting minutes of 2005, as requested by the requester and M. Perry seconded the motion. The motion passed by unanimous vote. (TM, MP, DS, PM)

VIII. ADJOURNMENT

MOTION:

P. Monziona motioned to adjourn and D. Schaeffner seconded the motion. The motion passed by unanimous vote. (TM, MP, DS, PM)

The meeting adjourned at 8:56 PM.

Respectfully Submitted,

Krista Argiropolis
Recorder, Public Minutes