

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
July 2, 2015
Approved 9/3/15 as Amended**

At 6:09 p.m., Paul Monziona, Vice Chair, stated to the meeting attendees that Timothy Morgan, Chair, would be arriving late, and that Lou Lacourse had not yet arrived. He noted that when the Chair arrived, that T. Morgan would then take over as Chair. He suggested delaying the meeting until L. Lacourse arrived, and stated that the meeting was noticed in the papers for 7:00 p.m., not 6:00 p.m., and that historically the meeting had started at 7:00 p.m. He reported that applicants and abutters had been notified of the 6:00 p.m. time. Steve Miller noted that the meeting was noticed for 7:00 p.m. There was a comment of concern from a member of the public, stating that he felt the meeting should be scheduled at a later time because he did not want to appear before the Zoning Board again or pay additional fees, if an abutter should dispute the time issue. P. Monziona responded that he had not yet called the meeting to order, and wanted to wait for the fourth member of the board to arrive because of possible consequences from having only three board members present.

I. CALL TO ORDER

Paul Monziona, Vice Chair, called the meeting to order at 6:33 p.m.

**II. INTRODUCTION OF CODE ENFORCEMENT OFFICER
AND ZONING BOARD MEMBERS**

Paul Monziona, Vice Chair, introduced himself, Board members, and Staff: John Dever, Code Enforcement Officer; Paul Larochelle, Member, Steve Miller, Member, and Lou LaCourse, Member. Timothy Morgan, Chair, was absent.

III. APPOINTMENT OF ALTERNATE

P. Monziona stated there are no alternates, but that they have a full, quorum. He stated that if anyone was interested in serving as an alternate, to let the board know of their interest.

IV. STATEMENT OF THE APPEAL PROCESS

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

V. APPROVAL OF THE AGENDA

J. Dever reported there were no changes to the agenda. S. Miller requested that the meeting move forward on the agenda to complete the approval of meeting minutes, and other business. J. Dever stated that T. Morgan felt he could be as much as an hour delayed in making the meeting. S. Miller asked the board what their pleasure was; P. Monziona responded that the newspaper notice showed a start time of 7:00 p.m., and that this would be their first night ever starting at 6:00 p.m. He noted that members of the public could be deprived of their opportunity to share their concerns if the board began their hearings before the posted time.

S. Miller motioned to move Other Business up on the agenda; second by P. Larochele, which passed unanimously. (4-0-0)

S. Miller motioned to approve the agenda as amended; second by P. Larochele, which passed unanimously. (4-0-0)

VI. OTHER BUSINESS

There was no new business.

S. Miller asked if the new recording secretary needed to be appointed. P. Monziona responded that it was not necessary, and welcomed Krista Argiropolis, Recording Secretary, to the meeting.

There was no correspondence.

VII. MEETING MINUTES

The board reviewed the meeting minutes of May 7, 2015. P. Monziona noted a change in the draft of the meeting minutes from May 7, 2015, on page 8; change the word "conformed" to the word "confirmed". There were no other changes.

S. Miller motioned to approve the meeting minutes of May 7, 2015, as amended; second by P. Larochele. Motion passed unanimously. (4-0-0)

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VIII. NEW APPLICATIONS

Z15-14 Lawrence J. Prelli, President, WPCA	Map 34; Lot 37-2	Variance 18 Mount Major Highway
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On behalf of owners of WPCA, Lawrence J. Prelli, President of WPCA is requesting an amendment to Case Z05-29, a Use Variance. The purpose of the request is to allow use of the basement area, previously represented as storage space, as living space. This property is located in the Residential Commercial (RC) Zone.

J. Dever added into the record that WPCA stood for Winnepesaukee Pavillon Condominium Association.

P. Monziona stated that the presentation could be delayed, if the presenter wished, and noted that the board could commence since there were less than 15 minutes until 7:00 p.m. He noted that the applicant would not have to re-file or re-pay fees if there was a continuance, as this would not count because of the posting issue.

P. Larochelle asked the board if he needed to recuse himself from the hearing, as he had a relationship with L. Prelli. He also asked the public if they had an issue with him being on the board; there were no objections. S. Miller asked if P. Larochelle would be doing any remodeling in the basement area; P. Larochelle responded that he would not. S. Miller confirmed that he accepted P. Larochelle on the board for this case. P. Monziona read the case into the record.

P. Larochelle motioned to accept application Z15-14; second by L. Lacourse. The motion passed by unanimous vote. (4-0-0)

L. Prelli thanked the board and the Zoning Department for their assistance with the application and process, and introduced himself. He spoke about the request to use the basement area in the Pavilion for more than storage, and reported that the basement could be considered “playrooms” or a “den area”. The members of the WPCA want to amend a previously approved use variance to Article 300; Section 301, to allow a multifamily structure with more than four dwelling units. The amendment is to allow residents to use their basement areas for additional living space, but without bedrooms or plumbing facilities.

L. Prelli reviewed the adjustment made by the Alton Zoning Board of Adjustment on October 6, 2005, which stated that the lower level would remain a storage facility for each unit. The condominium building has undergone significant changes since that October meeting, as a fire destroyed the entire renovated building in December, 2006. When the new building was constructed, the second floor was added, and the newly built structure added a larger basement level space allocations for residential unit owners. He stated that the restrictions of the basement to storage area applies to the old structure; not to the current structure.

He stated that the criteria for the request of the variance, noting there were five areas of concern listed on the worksheet for the request, and felt that WPCA could meet them all. He stated that the proposed usage will not create crowding, threaten public safety, increase noise, or create other public nuisance. The amendment concerns use of rooms within the units of the building, with no external impacts at all. The proposed usage occurs within the building and will have no impact deleterious to the spirit of the ordinance or to the town’s Master Plan. Unit owners will be able to make reasonable use of the basement area space. The use is more likely to enhance property values by making the units more attractive for resale. The added living space could thereby influence property values positively, albeit to a modest extent. The proposed usage is entirely reasonable while denying that usage would be an unreasonable restriction on the unit owners by forcing them to keep a large space unusable. Clearly, there is no relationship between the purposes of the ordinance and the use of basements as living space.

S. Miller asked if there were homeowners' guidelines; L. Prelli responded, no. S. Miller asked if the area could be subleased, if there was common area, and L. Prelli responded, no. S. Miller asked if plumbing could be added into the basement area, and L. Prelli stated that would be restricted by the guidelines. S. Miller asked if the basement was presented as storage area in the original plans; L. Prelli stated that it was storage in the original presentation, before the fire. S. Miller asked if any owners had two or more units; L. Prelli responded that there is a wall in the central unit that provides a wall from the living space, but that the area belonged to the owner, and that it was not common living space. S. Miller asked that once the rules and regulations were adjusted, if an appeal could be granted by the association for a variance within the association. L. Prelli stated he felt that would not happen.

J. Dever noted that the WPCA would go from the Zoning Board to the Planning Board, and then for review by the town's attorney; that this was a legal and binding document. P. Monziona stated that the association could amend their documents, within the law, as they saw fit, and if a variance could be granted by the Alton Zoning Board, with a condition.

P. Monziona reviewed the request, and noted that Article 401-4 did not prohibit the requested variance. He stated he was trying to understand why the WPCA needed a variance granted. He felt that the individual condominium owners should be the ones to apply for the living space. J. Dever explained that the variance requested was based on the use approval that was granted in 2005, and that the variance, at that time, allowed for the purpose of the use variance. It was stated very clearly, at that time, that the basement would be used only as storage. He stated that the opportune time to correct this would have been in 2006, after the building burned. He explained that it ended up in the condominium's documents that the condition of the use of the basements be limited to storage.

P. Monziona spoke about his concerns of the association seeking this variance and felt it should be up to the individual members of the association requesting the variance. L. Prelli stated that he understood the concern, but that on the advice of the town's counsel, there was a vote from the association that L. Prelli was authorized to act on the association members' authority. P. Larochelle asked P. Monziona if he saw the letter from the attorney; L. Prelli stated that he, as President of the association, was given permission to legally represent them; and that this was requested from the town's attorney, and that they had complied in good will. P. Monziona asked if L. Prelli could name the owners of the units, if asked; L. Prelli stated that he felt this was becoming an interrogation and that a list of owners was included in the packet. L. Prelli noted that one person owned three units.

P. Larochelle asked if there was a door to a common area under the retail space, and if there were sprinkler heads in those area. L. Prelli responded that this was noted by the fire department and that the only additional request from the fire department was for an additional fire extinguisher in that area. He reported that only Unit #4 could access the area under the retail space, that there was a door to that space from that unit only.

S. Miller asked how the hardship criteria was being met. L. Prelli stated they would make the hardship plea would be that they would not be able to make reasonable use of their property and that this would be an unreasonable restriction. S. Miller asked if there was representation when the units were purchased, if the basement space was not represented living space. L. Prelli stated he did not know how the space was represented, and felt that a reasonable person would assume that the space could be used for storage but that it could also be used for living space. He stated that he was one of the first people to buy into the condominiums, and had bought before the fire in 2005. He stated we are getting into a hard realm that the town could hold a standard on people that they could not use the space for living space.

P. Monziona confirmed the initial approval of the space for storage space. He asked about the placement of windows in the unit. He asked L. Prelli if he was making a representation on the record tonight that each owner has approved, by unanimous vote, that he would represent each owner, as the President of the association; L. Prelli confirmed that he was.

P. Monziona asked if anyone wanted to speak against the application; there was no response.

P. Monziona asked if anyone wanted to speak in favor of the application; William Tagerman stated he owned three units and confirmed that L. Prelli was approved to represent the members of the association.

P. Monziona spoke about his concerns about the legality of the representation and felt that his concerns had been satisfied. He discussed the request and the hardship criteria. S. Miller stated he did not share the same opinion about the hardship criteria, because any units that were purchased after it was rebuilt were looked at as other possible uses, such as living space; and that it was purchased as an unfinished product to make the cost more reasonable. He felt that there was an expectation by buyers after 2006 that this would be turned into living space. L. Lacourse stated that the hardship was the limits placed on them and the special conditions that they have no land. P. Larochelle felt that the conditions were placed on the units before the fire, and that the condition was not changed when the building was rebuilt. P. Monziona asked if there were any issues with water in the units; J. Dever stated there were no issues. J. Dever stated that with this condition in place, the current owners were being held to a condition that would cause them to come forward to the board because of the inappropriate actions of the previous owner.

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P. Larochelle stated that the variance ***is not*** contrary to public interest and felt there would be no impact on the public. P. Monziona stated the request was to remove a condition imposed by the ZBA, on a completely different structure, and agreed with P. Larochelle. L. Lacourse agreed. S. Miller agreed and felt that the safety issues were addressed but that he had concerns about heat in the basement area, but that it was not contrary to public interest.

P. Monziona felt the use ***is*** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety and character of the district within which it is proposed. L. Lacourse agreed. S. Miller also agreed and noted that safety issues had been addressed by the fire department. P. Larochelle also agreed.

L. Lacourse agreed that by granting the variance substantial justice ***will be*** done. P. Larochelle, P. Monziona, and S. Miller also agreed.

S. Miller felt that the request ***would not*** diminish the value of the surrounding properties because the variance would likely enhance property value. P. Larochelle, P. Monziona, and L. Lacourse also agreed.

P. Larochelle felt that the provision ***would*** alleviate an unnecessary hardship because it would lift the restrictions placed on a different building. P. Monziona agreed, L. Lacourse agreed, and S. Miller stated he felt conflicted by this as a hardship, and that this should have been addressed in 2006. He stated that the use was intended as living space, and it has been represented that this would not be living space, but that he agreed that an unnecessary hardship does exist.

L. Lacourse motioned to grant the variance to Z14-15 with the condition that all of the recommendations made by the fire department were implemented; no painted sprinkler heads; all open vertical areas need to be enclosed with sheetrock with a minimum of 30minute fire rating, to prevent rapid fire progression; the walls and ceilings by the water heaters should be sheet rocked; and a fire extinguisher should be in each basement unit. S. Miller seconded the motion. S. Miller amended the motion with the restriction that plumbing, such as plumbing for domestic use, was not added to the basement area and that the basement area was not subleased or divided off as sub-units, or bedrooms. The amendment was seconded by P. Larochelle. The motion passed by unanimous vote. (4-0-0)

Z15-15 Ella Donovan (owner) Steven Colclough (applicant)	Map 54; Lot 6	Variance 388 Route 11D
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On behalf of Ella Donovan & Steven Colclough, Allen Folsom of Advantage NH Lakes is requesting a Variance from Article 400 Section 401 of the Zoning Ordinance to permit the applicant to replace the two existing 3 BR residential cottages with a 4 BR single family home and replace the pre-existing septic with a new residential septic system within the "RS" Recreation Service Zone. This property is located in the Recreation Service (RS) Zone.

P. Monziona reported that he had worked with Allen Folsom, of Advantage NH in the past, and asked if any member of the board, the applicant, or a member of the public wished, he would recuse himself. There were no objections.

P. Monziona read the case into the record.

P. Larochelle motioned to approve the application for case Z15-15 as complete. Second by L. Lacourse. The motion passed by unanimous vote. (4-0-0)

A. Folsom presented his request. The applicants are proposing to replace two older cottages with a total of six bedrooms, with a four bedroom, single family home. The pre-existing septic will be replaced with a new system. The lot is approximately 1.14 acres, with 174' of shoreline frontage. The lot runs back to Route 11D approximately 260' and has approximately 120' of road frontage. The property is located in one of the four recreational service zones in the town.

There was discussion about allowing residential structures in the recreational service (RS) zone. P. Monziona asked if there were any other restrictions, other than the zone (RS). J. Dever confirmed that the applicant was converting the structure into a conforming use. L. Lacourse reported that the Conservation Commission reviewed the application and there were no comments. J. Dever reported that the Conservation Commission felt the application and proposal were appropriate. L. Lacourse spoke about the increase of the impervious area; A. Folsom presented the plans for the new structure, showing the placement of the new structure on the property, which will be 885 square feet. S. Miller noted that he did not find a letter stating that Advantage NH could represent the owner; P. Monziona stated that the intent of the letter in the application showed that the intent of the owner.

P. Monziona asked if there was anyone present who wished to speak in favor or speak against the application. There was no response from the public.

A. Folsom stated he felt the proposed use was appropriate.

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P. Monziona felt that the request for a variance ***was not*** contrary to public interest and that the proposed structure would have less impact on the area. L. Lacourse agreed, and S. Miller agreed, stating he felt that this was more conforming than the previous structures. P. Larochelle agreed.

L. Lacourse felt that the request ***is*** in harmony with the spirit of the zoning ordinance, the intent of the Master Plan, with the convenience, health, safety and character of the district within which it is proposed. P. Monziona, P. Larochelle, and S. Miller agreed.

S. Miller felt that by granting the variance, substantial justice ***will be*** done. P. Larochelle, P. Monziona, and L. Lacourse agreed. P. Monziona noted that there were no objections from abutters or from members of the public.

P. Larochelle felt that the request ***will not*** diminish the value of the surrounding properties. P. Monziona, L. Lacourse and S. Miller agreed.

There was no hardship noted in the request.

S. Miller motioned to approve the request in application Z15-15, as presented. Second by L. Lacourse. The motion passed by unanimous vote. (4-0-0)

Z15-16 Paul and Brenda Reed	Map 38; Lot 10	Special Exception 166 Spring Street
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On behalf of Paul & Brenda Reed, Wayne Copp, Wayne Copp Construction, is requesting a Special Exception from Article 300 Section 320 B.2.c, of the Zoning Ordinance to permit the raising of the elevation of the roof on the existing camp. This property is located in the Rural Residential (RR) Zone.

J. Dever showed the board that the house is non-conforming because the existing shallow pitch roof structure on their cottage would be more structurally sound with a steeper-pitched roof. P. Monziona read the request into the record.

L. Lacourse motioned to accept the application as complete. Second by P. Larochelle. It was noted that the list of abutters was missing from some of the packets, but that the list was submitted to the Zoning Department, and was in some of the board members' packets. Motion passed by unanimous vote. (4-0-0).

W. Copp discussed the proposed change to his clients' roof, and reported that the change in the roof structure would result in additional living space for the clients. The roof, once raised, would stay within the height restrictions.

S. Miller asked if this would create an additional bedroom; J. Dever noted that it would have to be approved; P. Monziona stated that it would have to have the appropriate water and septic. L. Lacourse asked if there were any cottages behind the structure; W. Copp stated there were not, but that there was lot behind them, but that the lot was at a 16' elevation to the owners' lot. W. Copp stated that the loft would be parallel with the lake, for a view.

P. Monziona asked if there was anyone present to speak in favor of the application or to speak against the application. There was no response.

L. Lacourse stated that the specific site is an appropriate location for the use because there is no change in the use of the specific site. S. Miller, P. Larochelle, and P. Monziona agreed.

S. Miller stated that factual evidence is not found that the property values in the district will be reduced due to incompatible uses because it does not impact the abutters in any way. P. Larochelle, P. Monziona, and L. Lacourse all agreed.

P. Larochelle felt that there is no valid objection from abutters because there is no negative impact. P. Monziona, L. Lacourse, and S. Miller all agreed. It was noted that there were no comments from abutters or from the public.

P. Monziona stated that there is no undue nuisance or serious hazard to pedestrians or vehicular traffic, including the location and design of access ways and off-street parking. L. Lacourse, S. Miller, and P. Larochelle agreed.

L. Lacourse stated that adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure because adequate and appropriate facilities are already provided on the site. S. Miller felt the roof would last longer because of this change, and agreed. P. Larochelle and P. Monziona also agreed.

S. Miller stated that there is adequate area for safe and sanitary sewage disposal and water supply. P. Larochelle, P. Monziona, and L. Lacourse all agreed.

P. Larochelle stated that the proposed use or structure is consistent with the true spirit of the ordinance and the intent of the master plan. P. Monziona, L. Lacourse, and S. Miller all agreed.

L. Lacourse motioned to approve the request in application Z15-16. Second by S. Miller. Motion passed by unanimous vote. (4-0-0).

VIX. ADJOURNMENT

P. Monziona noted that all other business was handled earlier in the meeting. He discussed his concerns about the requested adjustment made by WPCA, in application Z15-14, and felt that procedurally, the request would have been more appropriate for the Zoning Department to address, and that it was not a true ZBA issue. L. Lacourse agreed with P. Monziona and suggested that the board consider a different procedure in the future for this type of appeal. There was a brief discussion about types of requests and possible alternative means for addressing the requests.

The next meeting of the Alton Zoning Board of Adjustment will be held on Thursday, August 6, 2015, at 7:00 p.m.

S. Miller motioned to adjourn. Second by P. Larochelle. Motion passed by unanimous vote. (4-0-0). The meeting adjourned at approximately 8:45 p.m.

Respectfully Submitted,

Krista Argiropolis
Recording Secretary