

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
DRAFT MINUTES
Public Hearing
July 7, 2016
(Approved Sept. 1, 2016)**

I. CALL TO ORDER

Chairman Paul Monzione opened the meeting at 6:04 p.m.

The following members were present: John Dever III, Code Enforcement Officer; Timothy Morgan, Vice Chair; Paul Monzione, Chair; Steve Miller, Member; Paul Larochelle, Member, and Frank Rich, Alternate Member

Absent: Lou LaCourse, Member.

II. APPOINTMENT OF ALTERNATES

F. Rich was present. P. Monzione reported that L. LaCourse would be absent, and recommended that F. Rich was appointed as an alternate.

T. Morgan motioned to appoint Frank Rich as an Alternate Member for the July 7, 2016 meeting of the Alton Zoning Board. Second by P. Larochelle. The motion passed by a vote of 4-0-1 (FR - abstained).

III. 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.

IV. APPROVAL OF THE AGENDA

S. Miller motioned to approve the agenda as presented. Second by P. LaRochelle. Motion passed by a vote of 5-0-0.

V. NEW APPLICATIONS

Z16-12 Olymbia Pappaioannou	Map 5; Lot 74-4	Special Exception 532 Suncook Valley Road (Rt 28S)
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Apostolos Pappaioannou, agent for Olymbia Pappaioannou, is requesting a Special Exception to Article 400, Section 401 Table of Uses, Subsection “Retail Business and Services”, #6 Automotive Truck and Motor Vehicle Used Dealer” of the Zoning Ordinance to allow for the purchase and sales of used motor vehicles on the property located at 532 Suncook Valley Road. This property is located in the Rural Zone.

T. Morgan motioned to accept application Z16-12 as complete. Second by S. Miller. Motion passed by a vote of 5-0-0.

J. Dever noted there would be another step to this application and that the applicant would need to go to the Planning Board next for a site review.

Apostolos Pappaioannou stated he had nothing more to present. He stated that there would be no extra buildings, but that he was selling used cars on his property, as a permitted use, and it would like the Special Exception so that he can have more cars on the property than the state allows by law. He stated that they have six or seven cars there now, and nothing was going to really change. He anticipated one or two cars during the non-winter months. He stated that the cars would not sold for parts, up on blocks, no repairs, and that the cars would be in ready-to-drive condition. He stated it was simply to supplement his income.

There was a brief discussion about the zone, and it was noted that a special exception is allowed in the RU (Rural Zone). The requirements and restrictions that may be set by the Planning Board were discussed.

P. Monziona opened the floor to public input. There was no one to speak in favor or against the application.

S. Miller stated that he was concerned that this could set a precedence, so that Route 28S would look commercial, not rural. He felt that this would not be a good decision for the town, in the future. P. Monziona stated that if this was granted as a special exception, that the Planning Board would set the criteria that this is a home business, meaning there would be restrictions,

including no additional employees, no additional buildings, etc. T. Morgan noted that this type of business is allowed in this zone, and that the Planning Board will make sure that the application stands on its own merits.

There was no further input. P. Monziona moved the board on to the worksheet.

P. Larochelle stated that the plan ***had been accepted*** in accordance with the Town of Alton Zoning Ordinance Section 520, and all members agreed.

T. Morgan stated that the specific site ***is*** an appropriate location for the use, and felt it was an appropriate business. P. Monziona agreed. R. Frank stated it was a good lot, and clear, and agreed that it is appropriate. *S. Miller did not agree* and felt it would not add value to the town, the reputation of the town, or the scenic beauty of the town. P. Larochelle stated he agreed with T. Morgan, P. Monziona, and F. Rich.

P. Monziona stated that factual evidence ***is not*** found that the property values in the district will be reduced due to incompatible use. He felt that S. Miller's comments made sense, but noted that this is a home business, there were limits, and it is on Route 28. He felt it met the criteria for something that is permitted by special exception. He noted there were no objections to the applications from abutters. F. Rich agreed with P. Monziona and there were no abutters speaking against the application. *S. Miller stated he disagreed with the other board members.* He stated that there could be extenuating circumstances that could keep people from attending the meeting to speak against the application. He felt that the business would negatively impact the property values. P. Larochelle stated that there was no factual evidence that this would impact property values, and stated he agreed with P. Monziona's original statement. T. Morgan agreed.

F. Rich stated that there ***is no*** valid objection from abutters based on demonstrable fact. All board members agreed.

S. Miller stated that there ***is no*** undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-stage parking. All board members agreed, and P. Monziona stated that he agreed with the condition that this remains a home-based business.

P. LaRochelle stated that adequate and appropriate facilities and utilities ***will*** be provided to ensure proper operation of the proposed use or structure. He stated this is an exiting home, private business, and no employees, so there would be no increase in the normal use. All board members agreed.

T. Morgan stated that the sewage that is there is adequate for safe and sanitary sewage disposal and water supply. and noted that it would remain that way as long as this remained a home-based business. P. Monziona and F. Rich agreed. *S. Miller did not agree* and stated there was no evidence about the care or containment that would be given to leaks emitting from the vehicles on the property. P. LaRochelle agreed with T. Morgan.

P. Monziona stated that the proposed use or structure *is* consistent with the spirit of this ordinance and the intent of the Master Plan. F. Rich agreed. S. Miller *disagreed* and expressed his concerns about keeping the rural character of the town. P. Larochelle agreed with P. Monziona. T. Morgan also agreed with P. Monziona.

T. Morgan motioned to grant the request for case Z16-12 as presented. Second by P. LaRochelle. P. Monziona clarified that the case was presented as a home-based business, and T. Morgan confirmed that was his intent. The motion passed by a vote of four in favor; one against. (4-1-0) (SM - no)

Z16-16 Diane and Richard Rush	Map 34; Lot 33	Special Exception Rand Hill Road
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Diana and Richard Rush, agents for the Alton Bay Christian Conference Center, are requesting a Special Exception to Article 300, Section 320 (A) (4) of the Zoning Ordinance to permit expansion of use; to replace an existing 12' X 64' manufactured/mobile home that has an 8' X 11' top out, with a new 16' X 80' manufactured home with an 8' X 16' three season porch and 8' cement slab. This property is located in the Residential Zone.

T. Morgan motioned to accept application Z16-16 as complete. Second by P. Larochelle. Motion passed by a unanimous vote. (5-0-0)

Diane Rush reported that she had emailed someone at the Code Enforcement Office that the 8' slab was not needed. It was noted that the drawings presented to the board, with the application, were accurate, but that the description that was written up with the notice was a misinterpretation of the request. This request is an expansion of use. The board reviewed the plan, and the dimensions of the current structure and the new proposed structure. P. Monziona noted that the request, if granted, would result in a structure that was more non-conforming, and noted that this would not be a new use; clarifying that this would be turned into a year-round use, not a seasonal use, as it is now. He noted they were increasing lot coverage. J. Dever noted that there was not a non-conformance of lot coverage. P. Monziona noted that they are not expanding use or expanding set-backs. The area where this is going to go is all build-able.

D. Rush spoke about her and her husband's plans to retire at the home, and spoke about it being more ADA compliant for them, as they age. She noted they had lived in Alton for thirty years, and had children and grand-children living in town. She spoke about the quality of the home they are planning to purchase. P. Monziona stated he felt the use was not being expanded, in his opinion.

There was discussion about the new home, the number of bedrooms (three), the type of heating (LP gas), and the placement the new building on the property.

P Monziona opened the floor to public input.

Randy Williams, abutter, spoke in favor of the application.

Robin Hanson, abutter, also spoke in favor of the application.

There was no one to speak against the application.

T. Morgan stated that the plan ***had been accepted*** in accordance with the Town of Alton Zoning Ordinance Section 520, and all members agreed.

P. Monziona stated that the specific site ***is*** an appropriate location for the use, and all board members agreed.

F. Rich stated that factual evidence ***is not*** found that the property values in the district will be reduced due to incompatible use. All members agreed.

S. Miller stated that there ***is no*** valid objection from abutters based on demonstrable fact. All board members agreed.

P. LaRochelle stated that there ***is no*** undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-stage parking. All board members agreed.

T. Morgan stated that adequate and appropriate facilities and utilities ***will*** be provided to ensure proper operation of the proposed use or structure. All board members agreed.

P. Monziona stated that the sewage is adequate for safe and sanitary sewage disposal and water supply. All board members agreed.

F. Rich stated that the proposed use or structure ***is*** consistent with the spirit of this ordinance and the intent of the Master Plan, and commended the Rushes for their plans. All board members agreed, and P. Monziona stated that this is permitted by special exception.

S. Miller motioned to grant the request for case Z16-16 as presented, with no addendum or amendments. Second by F. Rich. The motion passed by unanimous vote.(5-0-0)

Z16-17 Brian Fortier	Map 61; Lot 1	Variance Mount Major Highway
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Brian Fortier, co-owner of the property and agent for West Alton Marina, is requesting a Variance to Article 400, Section 401, Table of Uses, Retail Businesses and services #28 "Marinas" in the

Lakeshore Residential Zone. The purpose of the request is to allow expansion of the existing marina use located on Map 17; Lot 29, onto Map 61; Lot 1. The marina is located on Map 17; Lot 19, which is wholly within the Recreational Service Zone. Map 61; Lot 1 abuts the Marina, but straddles the Zoning Boundary between the Recreational Service Zone, and the Lakeshore Residential Zone, which encompasses the majority of the lot.

T. Morgan motioned to accept application Z16-17 as complete. Second by P. Larochele. The motion passed by unanimous vote.(5-0-0)

Brian Fortier spoke about the history of the property, the roadways, and previous plans for expansion and use of the property. He spoke about marina use in town, and noted that the property straddled two conflicting zoning areas. He presented the proposed plan. He stated that the marina offers storage, dock rental, and service. He discussed the proposed buildings that will be placed on the property, which will include a boat wash, which will include filtered water for washing the boats that will be re-cycled, and a covered service building to keep boats that are being repaired out of the weather, and from leaking on the ground. He felt it was the best use of the property, noting that the access to it is Mauhaut Shores Road and that there would not be a housing development on the property.

Attorney Robert Dietel spoke about the proposed property. He reported that Brian had invested a lot of time, energy, and money into the proposed property. He spoke about the topography and wetlands on the site. He noted that this is a unique lot, spanning multiple zoning districts, and felt that the request was reasonable. He felt that the request met all of the criteria of the variance worksheet.

The board discussed the history of the zoning in the area, which was implemented in the 1970's. Attorney Robert Dietel stated that at the time the ordinance was put into effect, it was likely there were more access points because there were fewer restrictions to building by the water, than there is now. There was a brief discussion of the road and access. S. Miller asked if at some future point there would be residential development in that area, and Attorney Robert Dietel responded that when they looked at how they could develop the property in a residential way so they could get a reasonable return on the investment, that the terrain, wetlands, and access would not be a public benefit.

There was discussion about the placement of the buildings in the Recreational Service Zone vs. placing them in the Lakeshore Residential Zone. It was noted that there is acreage, but that it was felt to be non-developable because of the topography, setbacks, and limitations. There was discussion about aesthetics, and what would be visible from the road, the water, etc. Attorney Robert Dietel noted there was a letter from a direct abutter, stating that he had staked the property with the Brian, and reported that the buildings would not be visible from his property. S. Miller asked if the applicant was seeking to have 55 acres rezoned; Attorney Robert Dietel responded that he disagreed with the statement, but that they were seeking a variance, to figure out the best use for the property, and how they would overlay on the unique property and zoning. He stated that the purpose was not to develop the land into residential homes, but to keep it in the low intensity of use that it has now. S. Miller asked if the application was denied, if

the applicant would try to have the area re-zoned in a warrant article. Attorney Robert Dietel stated that was not their intent or plans.

F. Rich asked how tall the buildings would be; Attorney Robert Dietel stated they would be approximately 35 feet high, and there would be three stacked on each other, for the boat storage buildings, but the boat wash and service buildings would not be as tall. F. Rich discussed wetland delineation, and why the buildings would not be closer to the water. Brian stated they building were where they were at because of the size of the buildings. Attorney Robert Dietel stated DES would look at the cumulative disturbance would be on that land. There was discussion of buffers; F. Rich noted that buffers were not shown on the drawings that were presented, and spoke of his concerns of how the buildings would be accessed and tree coverage. There was discussion of parking and buffering.

John Murray Engineer, spoke about the placement and design of the buildings. He spoke about erosion and drain-off, and noted that the placement of the buildings would make for the least impact. F. Rich spoke about possibly placing a storage building where the contract building is located now. Attorney Robert Dietel spoke about the nature of the use of the building and other considerations that were given in the placement of the buildings.

There was discussion of the utilities needed for the buildings, including water, septic, etc. There will be no septic in the buildings; J. Dever noted that if there was pressured water in the building, that septic would be needed.

Attorney Robert Dietel stated that the uses that were being proposed, which occur now as part of the marina's activities, are things that take place now, but would be done in one of the buildings, such as the boat wash. Boats are washed now on the property; the proposed building would allow for a boat wash.

S. Miller asked if this was a phase of a plan to develop the property further. Brian spoke about the history of the development of the property, going back several years, when he asked for a permit for a building, including meetings he had had with DES. J. Dever presented a topography map, to show the placement of the buildings, and noted he wasn't arguing for the buildings but wanted to show the map for the board's consideration.

P. Monzione opened the floor to public input.

Jim Leery, an abutter, spoke in favor of the application.

Judy Hudson, an abutter, also spoke in favor of the application. She noted that Brian kept his property nice and felt he was a good neighbor.

Gail Freymoth, a direct abutter, also spoke in favor of the application, and stated that the marina were good neighbors.

Patricia Scribner, an abutter, spoke in favor of the application. She stated she'd known the

family for a long time and knew they loved the town and loved the land and would not do anything to hurt it.

Meg Kessler, a future abutter, who is building a home near the marina, spoke in favor of the proposed plan. She spoke about the topography, noting that they had had similar issues with topography with the building of their home. She felt that the road should be looked at because it was gravel and was concerned about ruts in the road. She spoke about her concerns about signage, and hoped that Brian would not have a commercial sign on the road, but something that is appropriate. She reported that the end of the road is a bus stop, and urged the board to look at this, and felt that traffic could be a concern in September and June. She spoke about respecting the safety of the neighborhood.

Wayne Caron, abutter, spoke against the proposed application. He felt the forest was not as dense as Google Maps showed, that the commercial buildings would cause a decrease in the property values, and that this would be the start of additional commercial storage. He stated the buffer zone is a little misleading, and stated he was concerned he would be able to see the buildings from his property.

April Letourneau, an abutter, spoke against the proposed plan. She felt that the project would triple their storage, and felt that the project would create more runoff issues. She spoke about an issue with milfoil in the water. She expressed her concerns about traffic, the grade of the road, the roadways, and right-aways. She stated she was against the scope and nature of the plan. She felt she would be able to see the buildings on the lot when they were built.

Cindy Caron, an abutter, spoke against the proposed plan. She was concerned about the old road that is shown on maps, and felt it might be used as an access road; the access to the marina from two roads, asking why one road couldn't be used, and traffic safety.

Robert Stead, Sr., abutter, spoke against the project. He felt the scope of the project was not in the keeping with the neighborhood. He expressed concerns about noise, traffic, and fire safety. He felt the marina needed to expand, but was concerned about the size and scope of the project. He also noted that there might be blasting, which could cause foundations to crack and septic or well problems. He discussed the importance communication if three's a problem.

Norma Stewart, abutter, spoke against the project, and stated she was disappointed with Brian. She spoke about the association, and the goals of the association. She noted that the roads were maintained by the association, and stated that the sign was hit at least once each year. She stated that the roads were narrow - almost too narrow for two cars. She stated that she knew Brian had to do something down there, in the marina, but that it was too large a project. She stated it was residential and she wanted to see it stay residential. She felt the amount of traffic would be too much and that the residents would feel this was a safety issue, as well as have trouble passing vehicles on the narrow road.

Richard Finethy, abutter felt the plan was well thought out but with security lighting, the buildings would be visible for miles at night. He felt that the road would not be suitable for commercial

use, like what is being proposed. He felt the buildings were too big, and would have too much of an impact on the area.

Cindy Finerthy, abutter, reported that her family had owned the property she was at for forty years. She expressed concerns about lighting, traffic, noise, safety, and the impact this will have on the neighborhood. She also expressed concerns about property values, and asked the board how they would feel if this was in their back yard.

P. Monziona closed public input - there was no further input. He stated he would give the applicant an opportunity to speak to the comments.

Attorney Robert Dietel thanked the public for their input and requested a brief recess.

There was a brief recess (9:40 p.m.).

P. Monziona called the meeting to order at 9:55 p.m. He noted that no new cases would be started after 10:00 p.m.

Attorney Robert Dietel stated he had talked with Brian, and proposed that the applicant paved, as a condition, from the entrance of the lot to the road. He proposed using a gate to limit the access to the property. He spoke about aesthetics, and stated they would have a vegetative buffer, to the maximum extent required by the fire department, as a condition. He referred to the plans, and noted that there were significant set-backs, stating there would be a minimum of 160' vegetative buffer around the buildings.

S. Miller asked about security lights. Attorney Robert Dietel stated the lighting would be down-lighting, which would not impact the night sky. Brian stated that at this time, the storage buildings were not lit. Attorney Robert Dietel reported that the uses of the buildings are things that are done now outdoors. The marina is open from 8:00 a.m. to 5:00 p.m., from ice out to Halloween, Brian discussed the use of the buildings during the season, such storage would be utilized most for two months after ice out, and then would not be utilized because boats would not be in storage.

There was discussion of the placement and size of the buildings. Attorney Robert Dietel stated that the storage building that was closest to the residential homes, could be scales back to 200' x 160'. He discussed developing the property and with it being as low-intensity as possible.

T. Morgan felt that many of the concerns that were expressed fell under the purview of the Planning Board, and stated that there were strict guidelines that the board had to follow in the decision making. P. Monziona agreed, and stated that concerns, such as traffic and noise, would be addressed by the Planning Board. He spoke about the context of the worksheet, which they would take under consideration.

P. Monziona moved the board on to the worksheet.

S. Miller stated that the variance ***is not*** contrary to public interest. He stated that the applicant has significantly addressed the stewardship of the environment, and that the area is essentially a recreational zone, as much as it is more like a “rural commercial zone”. P. Larochelle agreed. T. Morgan agreed and noted that the zoning implemented in 1970 established the use, and that the use was in keeping with the zoning ordinance. P. Monziona agreed, and noted that if someone purchased that property and decided they wanted to put residential homes in the area, they could do that, but that this plan would not have the same impact. F. Rich agreed.

P. Larochelle 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. These buildings and the layout is pulling them away from the waterways, with less impact to the waterways. T. Morgan agreed, and stated that it is desirable to the Town of Alton. P. Monziona agreed. F. Rich agreed. S. Miller agreed and spoke of the vegetative buffer.

T. Morgan stated that by granting the variance substantial justice ***will be*** done. He felt that the benefit to the applicant out-weights any detriment to the community. All board members agreed.

P. Monziona felt that the request ***would not*** diminish the value of the surrounding properties because the variance would likely enhance property value. He discussed the applicant’s proposal to make changes on the plans. F. Rich agreed, with the conditions that the applicant proposed. S. Miller agreed and felt the buffer would be beneficial. P. Larochelle agreed. T. Morgan agreed, stating there was no evidence given to the board against this.

F. Rich felt that the provision ***would*** alleviate an unnecessary hardship because it would lift the restrictions and that the proposed use was a reasonable use. S. Miller agreed. P. Larochelle agreed. T. Morgan agreed. P. Monziona agreed and discussed the zoning, the land, and what would be appropriate, which he considered special conditions of the property.

S. Miller motioned to grant the variance to Z16-17 based on the conditions presented by the applicant: seasonal use and hours, outside road improvement and paved, gated property for authorized personnel, vegetative buffers at the maximum allowable fire codes, and the reduction of the building. . Second by P. Rochelle. The motion passed by unanimous vote. (5-0-0)

Z16-18 Brian Fortier	Map 61; Lot 1	Variance Mount Major Highway
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Brian Fortier, co-owner of the property and agent for West Alton Marina, is requesting a Variance to Article 400, Section 401, Table of Uses, Retail Business and Services #'s 13 “Building Trade or Repair Shop” and 15 “Contractor Equipment Storage” in the Lakeshore Residential Zone. The purpose of the request its construct facilities to accommodate the relocation of an existing grandfathered marine instruction business from its present location in the Marina to a portion of Map 61; Lot 1. The Marina is located on Map 17; Lot 29, which is

wholly within the Recreational Service Zone. Map 61; Lot 1 abuts the Marina but straddles the Zoning Boundary between the Recreational Service Zone, and the Lakeshore Residential Zone, which encompasses the majority of the lot.

T. Morgan motioned to continue Case Z16-18 to the meeting on August 4, 2016. Second by P. Larochelle. The motion passed by unanimous vote. (5-0-0)

S. Miller requested to be excused. (Excused at 10:45 p.m.)

VI. PREVIOUS BUSINESS

There was no other business.

VII. NEW BUSINESS

T. Morgan motioned to table the meeting minutes to the next meeting. Second by P. Larochelle. The motion passed by unanimous vote (4-0-0) (absent - SM)

There was no correspondence.

VI. ADJOURNMENT

F. Rich motioned to adjourn. Second by P. Larochelle. Motion passed. (4-0-0). Meeting adjourned at 10:48 p.m.

Respectfully Submitted,

Krista Argiropolis
Recording Secretary