

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
APPROVED MEETING MINUTES
August 3, 2017**

The following members were present:

Steve Miller, Chairman
Paul LaRochelle, Vice-Chairman
Lou LaCourse, Clerk
Paul Monziona, Member
Tim Morgan, Member
Frank Rich, Alternate Member

Others present:

John Dever, III, Code Enforcement Official
Jessica A. Call, Recording Secretary

I. CALL TO ORDER:

Steve Miller called the meeting to order at 6:00 p.m.

II. APPOINTMENT OF ALTERNATES:

Steve Miller stated there was no need to appoint any alternates because a full Board was present.

III. STATEMENT OF THE APPEAL PROCESS:

The purpose of this hearing is to allow anyone concerned with an Appeal to the Zoning Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than the 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 would 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 have been or will be met.

IV. APPROVAL OF THE AGENDA:

Steve Miller asked John Dever, III, if there were any changes to the agenda, he stated there were none. Steve Miller then suggested to move "Discussion on meeting with Jim Sessler in regards to the Downing's Administrative Appeal" under "1. Previous Business" to just before Case #Z17-15.

**Lou LaCourse moved to accept the agenda as amended.
Tim Morgan seconded. Motion PASSED by a vote of (5-0-0).**

V. TABLED FROM JUNE 1, 2017 MEETING:

Case # Z17-11 David Livingston	210 Woodlands Road Map 56 Lot 41	Special Exception Residential (R)
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Present was David Livingston.

Steve Miller asked John Dever, III, if the application was accepted at the previous meeting, he stated that it had been accepted as complete and it was tabled because there was an open NH DES investigation at that time. He then stated that he received an approved Restoration Plan, dated June 28, 2017, to resolve the issue with them. Tim Morgan stated that NH DES made a plan approval that was entirely over water off the shore and asked if they had jurisdiction to hear the case. John Dever, III, stated that the Board did have jurisdiction to hear the case, because one of the primary reasons were that the Town's height restriction was more restrictive than NH DES for structures over the water.

John Dever, III, explained that Mr. Livingston applied for a Special Exception because his original boathouse was non-conforming. Therefore, his request was to replace the non-conforming structure.

Steve Miller asked Mr. Livingston if he had any issues with complying with any of the constraints written in the June 28, 2017, Restoration Plan Approval from NH DES, he stated that he did not.

Steve Miller then turned to the Board for any questions. Tim Morgan asked Mr. Livingston if he wanted to go forward with presenting his case. Mr. Livingston stated that his presentation was done at the prior meeting and considered this just a continuation of that meeting.

Steve Miller explained that in September 2016, construction of the boathouse was discovered by John Dever, III, and a stop work order was issued by him at that time, because there was no building permit pulled and no approval was given by the ZBA for replacement. He also mentioned that the contractor that Mr. Livingston hired had worked in Alton several times throughout John Dever, III's, tenure, and on lakefront properties, but he too claimed that he was unaware of the requirement for a Town building permit. Mr. Livingston stated that he did not know he needed a building permit because the boathouse was out over the water. He had obtained his State permits and he thought he was complying with everything he was supposed to, therefore he did not realize he was in error.

Paul Monzione asked what the height of the structure was at the top of the roof. Mr. Livingston stated that the old boathouse was 16' 6" and as of today, the new boathouse was approximately 3-4" beneath that. Paul Monzione stated that by reducing the height of the boathouse, it made the structure less non-conforming, and that the Town's height restriction was 15'. He also confirmed with Mr. Livingston that the structure was not going to create any new or additional non-conforming aspects, Mr. Livingston agreed.

Steve Miller opened up public input. No public input. Steve Miller closed public input.

Paul Monzione stated that even though he understood what John Dever, III, said about jurisdiction, he still thought it was an issue with the boathouse being entirely in the lake, because NH DES had jurisdiction over the lake. He thought there was NH case law that if a structure was in the water, it fell into the jurisdiction of the State only. He also thought that once Mr. Livingston received State approval, that was all he needed to proceed with construction, but he did not mind going through the criteria to see how things turned out. Tim Morgan agreed. Steve Miller asked Paul Monzione what he meant by "entirely in the lake", did it mean from the water line out, or was it from the beach out. He asked what determined "in the lake"? Paul Monzione stated what

happened nowadays was boathouses were usually constructed by excavation into the shoreland and the boathouses were usually constructed onsite, and he had no question that those types of structures fell within the Town's jurisdiction.

Steve Miller moved onto the worksheet.

Paul Monziona stated that the plat **had been** accepted in accordance with the Town of Alton Zoning Ordinance of 520B.

All Board Members agreed.

Tim Morgan stated that the specific site **is** an appropriate location for the use. He stated that it had been and continued to be a boathouse.

All Board Members agreed.

Paul LaRochelle stated that factual evidence **is not** found that the property values in the district would be reduced due to incompatible land uses. He stated that it was strictly in the lake and would not have any impact on property values in the surrounding areas. Steve Miller thought that property values should increase based on new construction. Paul Monziona stated that the use was compatible with similar structures in that area.

All Board Members agreed.

Steve Miller stated there **is no** valid objection from abutters based on demonstrable fact. He stated that there was no evidence or testimony from any abutter objecting to the boathouse.

All Board Members agreed.

Lou LaCourse stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. He stated that this criteria did not apply. Paul Monziona stated that this structure would have no impact on these issues.

All Board Members agreed.

Paul Monziona stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of proposed use or structure as stipulated. He stated that this structure was not a residence and there were no utilities or facilities that would be applicable.

All Board Members agreed.

Tim Morgan stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated that this criteria was not applicable because of the type of structure it was.

All Board Members agreed.

Paul LaRochelle stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. He stated that this had been a boathouse in this area since 1949 and this followed suit with the rest of the properties in the surrounding area. Steve Miller stated that the testimony of the NH DES Restoration Plan Approval constraints would be adhered to without exception.

All Board Members agreed.

Paul Monziona moved to grant the Special Exception for Case # Z17-11, with a condition that the applicant's representation of all the requirements of the NH DES Restoration Plan Approval letter dated June 28, 2017, would be met.

Paul LaRochelle seconded. Motion PASSED by a vote of (5-0-0).

1. Previous Business:

Discussion on meeting with Jim Sessler in regards to the Downing's Administrative Appeal

Steve Miller stated that the ZBA consulted with Jim Sessler, Esq., Town Counsel, because of a significant concern whether or not the ZBA had jurisdiction over this particular case.

Paul Monziona stated that he had represented people in the past on land use issues and he was familiar with the fact that the State Statutes stated that the ZBA had jurisdiction on an appeal of the interpretation of a zoning regulation by a Code Enforcement Officer. He stated that if a Code Enforcement Officer interpreted the language of a zoning regulation and the applicant or abutter disagreed with that interpretation, the ZBA would have jurisdiction under those circumstances to make a decision on whether the Code Enforcement Officer's interpretation was correct. He also stated that it became clear during the Downing's presentation at the last ZBA meeting, that what was being appealed was a factual determination by John Dever, III, Code Enforcement Officer, on whether abandonment had occurred, which was a factual question. Paul Monziona noted that an issue was raised during that meeting about whether the ZBA had jurisdiction to hear that type of appeal, because he thought they did not. Therefore, the ZBA consulted with Town Counsel, who confirmed that the State Statutes only conferred jurisdiction on the ZBA to hear appeals involving interpretations of the language and not determination of fact. On the advice of Town Counsel, the ZBA did not have the authority to hear the appeal.

VI. TABLED FROM JULY 6, 2017 MEETING:

Case # Z17-15 Jonathan H. & Nancy J. Downing, Applicant Melba F. & Kristina A. Oikle, Trustees of the Melba F. Oikle Rev. Living Trust of 2006, Owners	4 Barr Road Map 32 Lot 44	Administrative Appeal Residential/Commercial (R/C)
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There was no one present for this application.

**Steve Miller made a motion that under advisement by Jim Sessler, Esq., Town Counsel, that the ZBA did not have jurisdiction over Case #Z17-15 as presented, concerning factual issues.
Tim Morgan seconded. Motion PASSED by a vote of (5-0-0).**

VII. NEW APPLICATIONS:

Case # Z17-16 MacDowell 2015 Family Trust, James H. MacDowell, II & Elizabeth A. MacDowell, Trustees	5 Misty Lane Map 12 Lot 36	Special Exception Rural (RU)
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Present was James H. MacDowell.

**Tim Morgan moved to accept application #Z17-16 as complete.
Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).**

James H. MacDowell came to the table to speak. He stated that he and his wife purchased the property in October 2016, which consisted of two (2) single-family dwellings. During negotiations with the property owner, the MacDowell's were made aware that the house at 5 Misty Lane had a home inspection, and that

inspection determined that the house had outlived its useful life. He noted that he and his wife resided in the other dwelling, which was 14 Misty Lane. He shared that a new septic system had been installed for a two-bedroom home in October 2016. The MacDowell's planned to demolish the existing dwelling and replace it with another two-bedroom, single-family ranch style dwelling. The dimensions were slightly larger because that was what most pre-manufactured modular homes came in. The MacDowell's wanted to move the house a few feet back away from Old Wolfeboro Road, which would solve a small grading issue in front of the house. He stated that both residences were served by one well, which was tested and had a sufficient amount of water to serve the two structures. The access to 5 Misty Lane was currently through a private driveway known as Misty Lane and would continue as such, except for a change that they were proposing for parking in the front side of the building instead of out back. He stated that they would loam and seed out back of the house to make it look like a nice yard area. The utilities, power, telephone, and cable come in overhead from Old Wolfeboro Road. He then stated that if this was accepted by the ZBA, construction would start in the fall, renting it out as a year-round rental.

Paul Monzione asked if the existing structure was a year-round use, Mr. MacDowell stated yes. He asked Mr. MacDowell if the proposed structure would increase the s.f. of the residential structure, Mr. MacDowell stated yes, that they would square off the footprint. Paul Monzione thought that the plan that was submitted was a good plan, but he had a concern. He went on to state that Mr. MacDowell applied under Article 320 Section A.6. for a special exception, which meant keeping the same s.f. of the building in the area while allowing the building footprint to be realigned, as long as the new structure complied with all setback requirements. Paul Monzione's concern was that Mr. MacDowell was not staying in the same s.f. The way he read the zoning regulation was that if someone was going to take a non-conforming building and voluntarily raze it and then rebuild, they would still have to come in for a special exception to inform the Town of that, and the Board would have to make a decision on whether to grant it or not. Since Mr. MacDowell was going to increase the s.f., it seemed that he was trying to do something that the zoning regulation did not permit, and indicated that it would be a requirement for a variance. Mr. MacDowell stated that he met with John Dever, III, Code Enforcement Official, and Jessica A. Call, Zoning Secretary, and they informed him to apply for a special exception.

Tim Morgan stated that Mr. MacDowell was realigning the structure, which was allowed under a special exception. He stated that the change was de minimis and was part of the re-alignment, and it looked like the old structure was not quite as rectangular as the new one. He also stated that in re-aligning the structure, that was what created the 175 s.f. expansion, which he thought was fairly minor. Paul Monzione thought it might have no real impact in terms of an increase in s.f. after hearing Tim Morgan's explanation.

John Dever, III, stated that this was a process that had been used in the past in very similar situations when someone wanted to replace a structure and only expand it a little bit. This application was put under expansion of use because, although it was not being expanded to a year-round use, the structure that was being used for the non-conforming use was being physically expanded. Instead of amending the zoning regulation to address this particular situation, this was how the ZBA had proceeded in the past on similar cases.

Lou LaCourse pointed out that it was a 14% increase and asked if that percentage was insignificant, or did it all depend on how big the structure was. Tim Morgan stated if there was a structure that was 5,000 s.f., then a 14% increase would be looked at. Lou LaCourse stated that the Board was looking more at the increase of s.f. and not the percentage difference, Tim Morgan agreed. Paul Monzione stated it was important to consider why the requirement was there for a non-expansion of the s.f. and what the zoning regulation was trying to do was prevent further non-compliance with the footprint. He then pointed out what Tim Morgan stated was if the increase was the result of moving a new structure back, then the Board could consider it de minimis, not having a real impact. Paul LaRoche wanted to clarify if both structures were using the same septic system, Mr. MacDowell stated no, there was a separate septic system for 14 Misty Lane.

Frank Rich asked if they were improving the garage. Mr. MacDowell stated he was planning on painting it, and would be using it for yard and garden equipment, and to store his truck for the winter.

Steve Miller opened up public input. No public input. Steve Miller closed public input.

Steve Miller moved onto the worksheet.

Tim Morgan stated that the plat **had been** accepted in accordance with the Town of Alton Zoning Ordinance of 520B.

All Board Members agreed.

Paul LaRochelle stated that the specific site **is** an appropriate location for the use. He stated that this was in close proximity to the old structure with only a small percentage of increase. Steve Miller stated that this use was permitted in the zone.

All Board Members agreed.

Steve Miller stated that factual evidence **is not** found that the property values in the district would be reduced due to incompatible land uses. He stated that the new structure would be a significant improvement. He also noted that there was no testimony or evidence presented that property values would be affected. Paul Monzione stated that the use was compatible.

All Board Members agreed.

Lou LaCourse stated there **is no** valid objection from abutters based on demonstrable fact. Paul Monzione stated that no one came forward to object and there was nothing on record.

All Board Members agreed.

Paul Monzione stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. He stated that parking was well accommodated and nothing was presented that pedestrian or vehicular traffic would be adversely impacted.

All Board Members agreed.

Tim Morgan stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of proposed use or structure as stipulated. He stated that it was a residence and they were replacing a residence in-kind.

All Board Members agreed.

Paul LaRochelle stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated that the well was used by both properties, and a new septic system had been installed in 2016. Steve Miller stated that the structure was going to stay a two-bedroom and the septic system was designed for such a structure.

All Board Members agreed.

Steve Miller stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. He stated that a residential usage was permitted within the zone and even though the MacDowell's intent was to rent out the structure, it was consistent with the Master Plan.

All Board Members agreed.

**Tim Morgan moved to grant the Special Exception for Case # Z17-16.
Paul Monzione seconded. Motion PASSED by a vote of (5-0-0).**

DISCUSSION:

Steve Miller wanted to make it known that the de minimis criteria was acceptable and thought that the Zoning Ordinance be amended to include a definition of what de minimis was in order to give the ZBA some type of guidance, whether it be determined by s.f., percentage, or a combination of both. Paul Monzione shared that the Zoning Amendment Committee just had their first meeting last week, and this issue could be addressed at a future meeting.

Case # Z17-17 Thomas W. Varney, P.E., Agent for Anthony & Charlotte Ann Sciola	106 East Side Drive Map 33 Lot 8	Special Exception Lakeshore Residential (LR)
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Present were Thomas W. Varney, P.E., Agent, Anthony Sciola, Owner, and Jim Colbroth, Abutter.

**Tim Morgan moved to accept application #Z17-17 as complete.
Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).**

Thomas W. Varney, P.E., and Mr. Sciola came to the table to speak. Thomas W. Varney, P.E., stated that the Sciola’s had owned the property for a number of years and throughout that time, the cottage had deteriorated and was in need of extensive repair. He stated that the plan was to demolish the existing cottage and replace it with another one on the existing footprint, and to expand the two back walls two (2) feet into the building envelope. The structure was proposed to be enlarged on the second floor and the roof peak elevation would be increased by 1’ 11”. The driveway was proposed to be widened and was located off East Side Drive. There was a new septic system installed in 2015. The shoreland permit was recently approved, and the driveway permit had been approved. The stormwater measures were designed to infiltrate stormwater into the soil.

Tom W. Varney, P.E., shared that the lot was 61 feet wide by 60.37 feet deep, which was a tiny lot. There was a foundation already there and had been worked on by replacing the foundation walls. There was access to the cellar from the front of the cottage. The proposal for the second floor was that Mr. Sciola was going to widen it out to fit the bottom floor. The increase in height was due to the floor joists being heightened from 6” to approximately 10-12”. The property would be environmentally upgraded where the lot size coverage was 32.5%, which was high. There was a catch basin to infiltrate water and drip edges to catch water off the eaves. Tom W. Varney, P.E., stated that there was nobody behind the Sciola’s and there was a stream that was located there, so the likelihood of a house being built there was slim. He thought that the other cottages would not have their views blocked.

Tim Morgan asked if the driveway was of impervious surface, Thomas W. Varney, P.E., stated yes. He stated that lot size coverage was 28.5%, now it was 32.5%. Tim Morgan asked if NH DES had approved that percentage in his application, and he stated yes. Steve Miller asked if the Sciola’s were using the exact footprint, Thomas W. Varney, P.E., stated that the back of the building had two walls that were being expanded into the building footprint, which was outlined in red on the plan.

Frank Rich asked if the structure was being taken down to ground level, Mr. Sciola stated he was building it from the foundation up. Lou LaCourse wanted to know if anything was going further beyond the side setback, because on the plan, near the expansion, it appeared to have a structure that was crossing a setback and asked what it was; Thomas W. Varney, P.E., stated it was as drip edge to catch rainwater.

Steve Miller opened public input.

Jim Colbroth, southerly neighbor at 104 East Side Drive, came to the table to speak in opposition to the application. He shared with the Board that he was in favor of this project and would love to see a new structure. He stated that there was a driveway in the back of the property, which really wasn't an official driveway and was actually someone else's property that gave permission to access to the back of his property, Mr. Sciola's property, and the next homeowner's property. Jim Colbroth's concern regarding this new construction was that the south side of the building was within 8' of his property line and he did not want it any closer than it already was. He pointed out that the second story addition would affect his view from the deck on the back of his house when looking out towards the lake. He also shared that he did not want construction vehicles driving over his back lawn to access Mr. Sciola's property, nor did he want to see those vehicles driving over the back portion of the property that belonged to Capitola.

Steve Miller asked if Mr. Colbroth had any objections to granting this application. He stated that he could have an objection, but did not have a chance to see the construction plans for what was proposed, to be sure. Lou LaCourse showed Mr. Colbroth a set of plans. After Mr. Colbroth had the opportunity to look at the plans, he stated that he did have an objection because the proposed second floor would block his view. Tim Morgan asked what part of the proposed structure blocked his view. Mr. Colbroth explained that if you were standing on Route 28A facing the building, the second floor that was being added to the right side would block his view. He also stated that he did not think it was fair that he should be told that he could only have a view of the lake from his front porch.

Steve Miller asked Thomas W. Varney, P.E., if the proposed second floor would block Mr. Colbroth's view, he stated that Mr. Colbroth's house sat up about 8 feet higher than Mr. Sciola's house, but felt uncomfortable stating whether it would actually block his view or not. Paul LaRochelle asked Mr. Colbroth if he could see over the boathouse, he stated yes. Paul LaRochelle further asked if he could see over the boathouse, how could the proposed second floor block his view. Mr. Colbroth stated that he would not have a landscape view of the lake and would only be able to see Sandy Point.

Frank Rich asked if the existing second story cottage blocked his view, Mr. Colbroth stated no. He then showed a picture to the Board that he took from his back porch looking out towards the lake. Steve Miller asked Mr. Colbroth if the granting of the special exception affect the value of his house, he stated yes, in a positive way.

Thomas W. Varney, P.E., read the application into the record.

Steve Miller was concerned because although the testimony that was provided showed there was no decrease in potential property values, and in fact there could be an increase in property values, he felt that there was a valid objection from Jim Colbroth about a loss of view. Steve Miller further stated that this was not an investment property, it was in fact his house that he resided in. Furthermore, the fact that property values would go up, essentially would not be as important to Mr. Colbroth as the fact that he was losing that he felt was a loss of view. Tim Morgan thought that Mr. Colbroth's loss of view was a valid concern, but he could not visualize what he was trying to convey either through the picture or through the elevations on the plan. Paul LaRochelle thought that by what he could see in the pictures, it appeared to be a filtered view through the trees. He also thought there would be a small amount of obstruction with this new structure, but not a significant obstruction and thought it was a loss of a panoramic view. Lou LaCourse stated that the abutting lot was 10' higher when he looked at it on the plan, so when Mr. Colbroth looked out his deck he could see the lake, but if he was looking out his window, he would lose his view from there. Frank Rich stated that after looking at the pictures, it appeared that the view was restrictive because there was a good portion of the middle of the structure that consisted of a chimney, and there was a tree filter; he could not see that it would significantly diminish Mr. Colbroth's view.

Paul Monziona read from the zoning regulation, and it stated that "The ZBA shall not grant such a special exception unless it finds that the proposed expansion will not have an adverse impact on abutters.....". He

stated that he was struggling with the meaning of the phrase “adverse impact” and if it pertained to this application. He thought that a site walk should be scheduled, Steve Miller agreed. Steve Miller shared that he disagreed with the fact that just because a neighbor had a good view from one side of their house, did not mean that they were not entitled to a 360 degree view, if that was why they bought the property to begin with. He thought that the Board should not put a value on how important a view was from another position in their house, but he thought that the Board could make a decision on whether it was a significant challenge in terms of appreciating the view.

Frank Rich asked Mr. Sciola if he eliminated building on the right side of the chimney on the second floor, did he think it would eliminate the issue Mr. Colbroth had about line of sight. Mr. Sciola stated that since he was rebuilding the whole structure, the chimney could be situated somewhere towards the back of the house. Paul LaRochelle asked if Mr. Sciola could come up with a different design for the second floor. Mr. Sciola stated that if he did not build out to the edge of the foundation, there would be nothing supporting the upper walls, and it was cheaper to build straight up.

Jim Colbroth was asked to come back to the table. He stated that the proposed project would not ruin his life, but it was a view from his house that would be restricted and he was only answering the questions that were asked of him by the Board. He estimated that it was about a 10-15% site loss. Jim Colbroth thought a site walk was reasonable.

Paul Monzione moved to table Case #Z17-17 to the September 7, 2017, meeting in order to conduct a site walk.

Tim Morgan seconded. Motion PASSED by a vote of (5-0-0).

DISCUSSION:

Steve Miller stated that Mr. Colbroth mentioned that he would have about a 10% view restriction, which calculated out to be about 18 degrees, and he did not think that was a significant amount of loss. He had no problems conducting the site walk. Tim Morgan stated that he would like to go on the site walk and then have a debate on this. Paul LaRochelle wanted the site walk also.

Steve Miller asked the Board if they wanted to conduct a site walk. All members agreed by a vote of (5-0-0). A site walk would be performed on Thursday, August 17, 2017, at 6:00 pm.

Case # Z17-18 Light-Harrington Family Trust, David N. Light & Joan C. Harrington, Trustees	Map 75 Lot 56	Variance Lakeshore Residential (LR) 10 Rattlesnake Island
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Present were David N. Light & Joan C. Harrington.

Lou LaCourse mentioned that there were no setbacks indicated on the plan, which was a requirement. Paul Monzione stated that the Board could ask the applicant to verify the information, but agreed that the setbacks should be indicated on the plan. Lou LaCourse did note that the building located on the plan appeared to be well within the setbacks.

**Paul Monzione moved to accept application # Z17-18 as complete.
Paul LaRochelle seconded. Motion PASSED by a vote of (5-0-0).**

David N. Light and Joan C. Harrington came to the table to speak. David N. Light explained that their property was located at the far Northwest tip of Rattlesnake Island and to their right, when facing the water, was a community lot owned by Rattlesnake Island Association where barges come in with equipment. This particular piece of property gave the applicants a lot of privacy. He stated that to their left was a couple that were looking into selling their lot, which consisted of 174 feet of shore frontage. He further stated that their neighbor offered to sell some of their land, 20 feet of frontage and 200 feet back to offer them more privacy, which would leave their neighbor's lot a conforming lot consisting of 154 feet of shore frontage. Their lot was going from 117 feet to 137 feet of shore frontage.

Tim Morgan asked if the applicants had to go before the Planning Board for a Lot Line Adjustment, John Dever, III, stated that they did. Mr. Light stated that his surveyor, Norway Plains Assoc., Inc., who did the original plan, noted that they used Google Earth to locate the building on the lot. Mr. Light stated that he measured the distance from the portion of his house, which was closest to a boundary, and came up with 22 feet.

Paul Monzione noted that there was a building located near the house. Mr. Light stated that there was a series of sheds that were built by the previous owners, one next to the other over a period of time. Steve Miller asked where the septic system and the well were located. Mr. Light noted that the septic system was located behind the house. Steve Miller pointed out that if the neighbor was losing 20 feet from their property, how close was their septic system going to be. Mr. Light noted that their neighbor's septic system was located behind their house. He also noted that they did not have a well, that they used bottled water for drinking and cooking, and lake water for all other uses.

Steve Miller opened public input. No public input. Steve Miller closed public input.

Steve Miller moved onto the worksheet.

Paul LaRoche stated that the variance **will not** be contrary to the public interest. Lou LaCourse stated that this variance would make the lot less non-confirming that it already was. All Board Members agreed.

Steve Miller stated that the request **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. He stated that it would be making one lot significantly less non-confirming and that was what the ordinance was written for. Paul Monzione stated that the lot that was being decreased still remained as a conforming lot. All Board Members agreed.

Lou LaCourse stated that by granting the variance, substantial justice **will** be done. He stated that the lot would be less non-confirming. Paul Monzione stated that the lot was moving more towards conformance with the zoning regulation. Tim Morgan stated that the benefit to the applicant far outweighed the detriment to the Town. All Board Members agreed.

Paul Monzione stated that the request **will** not diminish the value of the surrounding properties. He stated that the other lot would remain as a conforming lot, therefore there was no adverse impact from that and there was no other evidence to indicate that other surrounding properties would be diminished in value. Steve Miller disagreed because he thought that it diminished the value of the property that was being decreased because it had less shoreline and less total s.f. John Dever, III, stated that the s.f. value was not going to change because the assessing value was a set rate designated per s.f. Steve Miller noted that John Dever, III's, definition of value was not sale price. John Dever, III, stated that the property would be valued at a specific rate and that rate would not be reduced. Steve Miller stated that now that he understood that definition of value better, he wanted

to change his vote to state that the request “will not diminish the value of the surrounding properties”. Paul Monziona commented that as a Board, John Dever, III’s, definition of value did not necessarily mean that was the only definition that the Board could go by. He stated, for example, if an applicant or abutter came forward and stated that something would diminish their value, they were not necessarily saying what John Dever, III, stated, nor would the Board necessarily view it that way either. As Board members, they could view value as they wanted to. Steve Miller thought that there was probably case law about the definition of value that had been argued in court at some point.

All Board Members agreed.

Tim Morgan stated that for purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) **No** fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;
- (ii) The proposed use **is** a reasonable one.

He stated that the ordinance that was requested was frontage for a lot, the two lots were old in origin on Rattlesnake Island, and they had special properties that distinguished them from other properties. The provisions of the ordinance did not have a substantial relationship to what was being voted on. He also stated that there would be an increase to a lot bringing it closer to conformity. Paul Monziona stated that if the Board were to strictly enforce the zoning ordinance under these circumstances, it would cause a more non-conforming lot to exist.

All Board Members agreed.

**Lou LaCourse moved to grant the Variance for Case # Z17-18.
Paul LaRochelle seconded. Motion PASSED by a vote of (5-0-0).**

VIII. OTHER BUSINESS

1. Previous Business: None.
2. New Business:

- a. Discussion on updating the Town of Alton’s ZBA By-Laws and the Application of Appeal, working draft dated August 3, 2017.

It was decided that the Board would look through the changes that were proposed by Jessica A. Call, and then come back to the next meeting on September 7, 2017, to discuss the changes and any additional comments. Paul Monziona requested that Jessica A. Call address the Board on the suggestions she came up with and that might help direct the Board on their review. John Dever, III, stated that the changes to the By-Laws had to be read at two consecutive Public Hearings before they could be officially adopted.

3. Approval of Meeting Minutes:

- a. June 1, 2017

Paul Monziona pointed out that there were a few corrections that needed to be made:

- (i) On page 7 of 21, second to last paragraph, change “opposed” to “did not pose”.
- (ii) On page 11 of 21, second full paragraph, add “not” so it would read “would not adversely”.
- (iii) On page 17 of 21, the paragraph that began with “Paul LaRochelle” strike out the portion of the sentence that read “and the fact that the applicant was risking future development”.

**Paul LaRochelle moved to accept the minutes of June 1, 2017, as amended.
Lou LaCourse seconded. Motion was PASSED by a vote of (5-0-0).**

b. July 6, 2017

Lou LaCourse pointed out that there were a couple of corrections that needed to be made:

- (i) On page 1 of 8, the approval of the agenda should state “presented” and not “amended”.
- (ii) On page 4 of 8, in the middle of the first paragraph under “DISCUSSION”, it should read, “Lou LaCourse was concerned which would have the lesser impact” and strike out “Lou LaCourse was concerned about the Northern setback encroachment.”.

**Lou LaCourse moved to accept the minutes of July 6, 2017, as amended.
Paul LaRochelle seconded. Motion was PASSED by a vote of (5-0-0).**

4. Correspondence: None.

IX. DISCUSSION

Steve Miller suggested to have the packet of materials for the ZBA meetings mailed out to the members so they would receive them at least a couple of days before the meeting. John Dever, III, mentioned that this would be quite a substantial expense over the course of the year and currently there was no money in the budget for this. He further stated that Jessica A. Call prepares the packets on the Friday before the meeting and sends out an email letting members know they are ready to be picked up.

X. ADJOURNMENT

**At 8:25 p.m., Paul Monziona moved to adjourn.
Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).**

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as amended: September 7, 2017