

**TOWN OF ALTON  
ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES - APPROVED  
November 2, 2017, 6:00 P.M.**

**CALL TO ORDER**

Steve Miller called the meeting to order at 6:04 P.M.

**Board Members Present:**

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

**Others Present:**

Nic Strong, Alton Town Planner  
Carolyn Schaeffner, Recording Secretary

**APPOINTMENT OF ALTERNATES**

Paul LaRochelle recused himself from Cases #Z17-19 and #Z17-20, as he has worked for the applicants in the past.

**Tim Morgan moved to appoint Frank Rich to sit in as an alternate member for Cases #Z17-19 and #Z17-20. Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).**

**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 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 have been or will be met.

**APPROVAL OF AGENDA:**

**Paul Monzione moved to accept the agenda as presented.  
Tim Morgan seconded. Motion PASSED by a vote of (6-0-0).**

**TABLED FROM OCTOBER 5, 2017**

<b>Case #Z17-19 Regina A. Nadeau, Esq., Agent for Kevin D. &amp; Sandra L. Rothermel</b>	<b>East Side Drive Map 33 Lot 87-1</b>	<b>Variance Lakeshore Residential (LR)</b>
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A Variance is requested from **Article 400 Section 401** of the Zoning Ordinance to permit the construction of a garage as a principal building on a lot within the LR Zoning District.

Present for this application were Regina A. Nadeau, Esq., Agent, and Kevin D. & Sandra L. Rothermel, Owners.

Steve Miller noted, and opened for discussion to the Board, that since these cases have been put off three (3) different times, would anyone feel the need to allow the applicant to present a review of the application. Paul Monziona stated the public had a full and fair opportunity to be present to hear these applications and suggested the applicant begin where comfortable. Tim Morgan agreed.

Regina A. Nadeau, Esq., would like the Board to review the two applications for Variance together. Noted that she has met with Jim Sessler, Esq., Town Counsel, with photos, plans, letters from abutters, documents showing research with regard to the history of the lots and land.

Regina A. Nadeau, Esq., distributed a packet with documentations, plans, and descriptions of the deeds and properties.

**Frank Rich moved to accept the packet from Regina A. Nadeau, Esq., as part of the evidence for Cases #Z17-19 and #Z17-20.**

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

Regina A. Nadeau, Esq., described the different maps with colored boundaries from different years and how they have arrived at the current documentation showing the applicant's property boundaries.

General discussion on clarity of the different plans and set-backs needed.

Steve Miller noted concern for the septic vent pipes next to the foundation. Frank Rich noted the concern but feels this is an issue for the Code Inspector. Steve Miller referred to the Health and Safety portion of the Variance worksheet. Regina A. Nadeau, Esq., noted that the Variance and Building Permit can be noted as such for the correction of these vent pipes. Nic Strong was asked what the town of Alton allows. Septic systems are not required for a setback.

Open for public to speak in Favor

Paul LaRochelle. Not speaking in favor or against. Noted the Board was invited to review the property and not aware that any members have done so. This is a very steep property, noting the placement of the garage. With regard to the question of the septic vent pipe, most gases are released through the vents in the roof of the house and also into septic tank and into leach field, and the vents in the ground are mostly for releasing very little, if any gas.

Public closed in favor of the Variance.

Open for public to speak against the Variance.

None seen or heard.

Closed public to speak against the Variance.

Steve Miller asked Regina A. Nadeau, Esq., for a closing statement. Regina A. Nadeau, Esq., felt she has a full presentation she can give.

Steve Miller moved the Board onto the worksheet.

Paul Monzione. The variance **will not** be contrary to the public interest.

Reason: This request was to put a garage on a lot in the Lakeshore Residential, however this lot is hardly a lot at all. It is a section of a road/driveway/right-of-way, given to different use and nothing else could be put there. The garage seems to be appropriate to service the surrounding properties.

**All Board members agreed.**

Tim Morgan. 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.

Reason: This proposal does not detract from the character of this area. The foundation already existed there and it is an unusual set of lots. This is within the spirit of what is there already.

**All Board members agreed.**

Steve Miller. By granting the variance, substantial justice **will** be done.

Reason: There are not many other significant uses, other than to have a pretty landscape, to use this piece of land for. There has been considerable investment in making use of this land and improving it for the abutters in the back providing a retaining wall.

**All Board members agreed.**

Frank Rich. The request **will not** diminish the value of the surrounding properties.

Reason: It will add value to surrounding properties. It is taking a concrete foundation sitting for many years, which is an eye sore, and finally doing something with it.

**All Board members agreed.**

Lou LaCourse. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship.

A. 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; and
- (ii). The proposed use **is** a reasonable one.

B. If the criteria in subparagraph A. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

**All Board members agreed.**

**Paul Monzione moved that the Variance for Case #17-19 be granted on the specific condition that the applicant demonstrate to the Town that they have met and are in compliance with all Town and State Building Codes and requirements, including any required approvals from DES with regard to the septic system.**

**Frank Rich seconded.**

## **DISCUSSION:**

**Tim Morgan would like to add the condition that this Board took no position with respect to the title of the property this Board has granted the Variance for. Paul Monzione would like to add a condition that the Board took no position with regard to the title issues that Tim Morgan has described.**

Frank Rich seconded the amendment to Paul Monzione’s motion.

Question by Steve Miller with regard to the septic pipe. Lou LaCourse noted that Paul Monzione stated this in his motion. Paul Monzione also noted that his motion states that the applicant fully comply with the requirements. This would mean that the approval they receive is for the system as it exists.

Steve Miller asked the members for a vote; the motion PASSED by a vote of (5-0-0).

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Case #Z17-20 Regina A. Nadeau, Esq., Agent for Kevin D. & Sandra L. Rothermel	East Side Drive Map 33 Lot 87-1	Variance Lakeshore Residential (LR)
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A Variance is requested from Article 300 Section 327 A.3. of the Zoning Ordinance to permit the construction of a two-story garage, 2.78’ from the northerly sideline and .67’ from the southerly sideline, on a lot ranging between 30 and 37 feet in width, where 10’ is required.

Lou LaCourse asked about plowing and how this will be done at the end of the road. The applicant noted that it can only be snowblown as it has been done in the past.

Steve Miller moved the Board onto the worksheet.

Tim Morgan. The variance **will not** be contrary to the public interest.

Reason: Public Interest is to prevent crowding for safety purposes and the fact that it is close to the property lines it is not creating crowding or safety issues with regard to emergency vehicles so it is not contrary to the public interest.

**All Board members agreed.**

Steve Miller. 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.

Reason: The Spirit asked for a house to be built there and in absence of the possibility a house cannot be built there. A garage is a reasonable alternative and reasonable substitute. It has been addressed in Case #Z17-19 issues of convenience, health and safety and the character of the district.

**All Board members agreed.**

Frank Rich. By granting the variance, substantial justice **will** be done.

Reason: The benefit to the applicant far outweighs any detriment to the public as a whole.

**All Board members agreed.**

Lou LaCourse. The request **will not** diminish the value of the surrounding properties.

Reason: No substantial evidence has been given to believe that the property values would be affected.

**All Board members agreed.**

Paul Monzione. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship.

A. 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; and

(ii). The proposed use **is** a reasonable one.

- B. If the criteria in subparagraph A. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

**All Board members agreed.**

**Frank Rich moved to grant the Variance for Case #Z17-20. Tim Morgan asked to amend the same conditions as in Case #Z17-19. The Variance was to be granted on the specific condition that the applicant demonstrate to the Town that they have met and is in compliance with all Town and State Building Codes and requirements including any required approvals from DES with regard to the septic system. Also, that this Board took no position with respect to the title of the property this Board has granted the Variance for. Frank Rich agreed to the amendment. Paul Monziona seconded the motion as amended. Motion PASSED by a vote of (5-0-0).**

**Steve Miller moved to reseal Paul LaRochelle at 7:20 P.M.**

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

## **OTHER BUSINESS**

1. Previous Business: Update the Town of Alton's ZBA By-Laws and the Application of Appeal, draft dated August 3, 2017, and the Application for Extension of Decision, draft dated September 1, 2017.

Steve Miller asked if there are any questions or concerns. General discussion when they should be discussed. Would like to continue this to the December meeting. He asked the Board to closely review the document and note any changes to bring up for discussion at the December meeting.

Paul Monziona stated that some of the notations seem to be asking questions, referred to the one on the first page with regard to Alternates. Lou LaCourse stated he was ready with his recommendations tonight, but was willing to discuss any other changes at the December meeting.

All Board members agreed.

Page 1, Section 4.4

Lou LaCourse recommend to stay the same. Discussion. Paul Monziona suggested.

“The term of an alternate member shall be three years.” This should be placed at the end of 4.3 not 4.4.

Page 3, Section 7.4

Historically Clerk has presided. Change to “In the absence of the Chair and Vice Chair, the Clerk of the ZBA shall preside.” Paul Monziona suggested to remember to elect the Clerk after each election with appointing Chair and Vice Chair.

Page 3, Section 7.3

Add. At any meeting where only a quorum is present the applicant shall have the (change the word “opportunity” to “option”) to continue to reschedule to the next Scheduled meeting of the ZBA.

Page 6, Section 10.7.1

Clerk shall read [Application Notice]. Historically Zoning Officer has read. Discussion. Keep the “Clerk”. If Clerk not present, Chairman shall read.

Page 6, Section 10.7.3.3

Formality of communication through the Chairman. Noted this is important and good practice.

Close this discussion and to continue to next meeting on December 7, 2017.

2. New Business: None.

3. Approval of Meeting Minutes: October 5, 2017

Tim Morgan recommended on Page 2, Paragraph 1, "Tracy True noted [the location] of the building"  
Correction made on original.

Tim Morgan recommended on Page 2, Paragraph 7. Remove the second "not" in the second sentence.  
Correction made on original.

Tim Morgan recommended adding the names of the Board members on the Variance worksheet.  
Correction made on original.

Tim Morgan recommended on Page 4, VI. #5, add the word "input" after public. Correction made on original.

**Steve Miller moved to approve the minutes of October 5, 2017, as amended.**

**Paul Monziona seconded. Motion PASSED by a vote of (5-0-1), with Lou LaCourse abstaining.**

4. Correspondence: None.

## **ADJOURNMENT**

**At 8:00 P.M., Lou LaCourse moved to adjourn.**

**Frank Rich seconded. Motion PASSED by a vote of (6-0-0).**

Respectfully submitted,

Carolyn Schaeffner  
Recording Secretary

Minutes approved as amended: December 7, 2017