

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
November 3, 2011
Approved December 1, 2011**

I. CALL TO ORDER

Tim Morgan, Chair, called the meeting to order at 7:00 p.m.

II. INTRODUCTION OF PLANNING DEPARTMENT AND ZONING BOARD MEMBERS

Tim Morgan, Chair, introduced himself, the Planning Department Representative, and the members of the Zoning Board of Adjustment:

- Ken McWilliams, Town Planner
- John Dever, Building Inspector and Code Enforcement Officer
- Paul Monziona, Member
- Lou LaCourse, Member
- Steve Miller, Member
- Paul Larochele, Alternate

III. APPOINTMENT OF ALTERNATES

S. Miller made a motion to appoint Alternate Paul Larochele. P. Monziona seconded the motion which passed with four in favor.

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

P. Monziona made a motion to approve the agenda as presented. S. Miller seconded the motion which passed with four votes in favor and none opposed.

VI. NEW APPLICATIONS

Case #Z11-21 10-14 Lionell Terrace, Alton Bay	Appeal of Administrative Decision Map 40 Lot 4	Wayne & Karen Webster Carol & Gary Anderson Marcia & Richard Callahan
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On behalf of the property owners, Attorney Arthur W. Hoover, Alton Law Offices is requesting an Appeal from an Administrative Decision regarding a Notice of Violation dated 8/30/11 issued by the Code Enforcement officer citing definition of "Campground" in the Lakeshore Residential Zoning District.

P. Monziona made a motion to accept the application for case Z11-21 as complete. L. LaCourse seconded the motion which passed with five votes in favor and none opposed (T. Morgan, P. Monziona, L. LaCourse, P. Laroche and S. Miller)

J. Dever read the case into the record. The Town Planner will be the representative for this case. Arthur Hoover, Attorney is representing the applicants. He introduced the new lawyer in his office, his daughter, Jennifer Hoover who is licensed in Massachusetts and will be sworn in New Hampshire in about ten days. Wayne Webster and Karen Webster introduced themselves.

Attorney Hoover made it clear that there was not in any way to discredit the Code Officer. The Notice of Violation that was issued in this matter was on August 30, 2011. The only issue raised in the notice involved platforms which the Code Officer found created a campground which is not permitted in the Lakeshore Residential Zone. He stated that his clients did not know that building permits were required to build these platforms and they will meet with the Building Inspector to get the permits and they were not aware that there is a jurisdictional wetlands and one of the platforms is too close to the stream. The building and the lots are grandfathered. This has been owned by this family compound for 90 years. The platforms began as the family grew. There are currently five platforms in use and one is under construction and one is being planned so there will be a total of seven platforms.

Attorney Hoover explained the reason for the appeal is that the use is not a commercial use. It is not the way you would anticipate a campground. He compared this to other ideas of tenting and campgrounds. He questioned the word provisions and no definition for this in the ordinance. He mentioned that it talks about Article 400 Section 4 which in the Table of Uses Campgrounds comes under the category of Retail Business and Services. There is no definition for a Retail Business in the Ordinance. The Planner disagrees that it would be an accessory use to a primary use. He feels that it is an accessory use because each one of the tent platforms is tied to a particular building of the three building to allow sleeping quarters available to them. He read RSA 216-1:1 under Recreational Campgrounds and Camping Parks and RSA 216-1:5 Registration.

W. Webster explained the use of the platforms and their intentions.

The members of the Board asked their questions to clarify this application.

T. Morgan opens it up to the Public.

Richard Callahan spoke in favor of this application.

Leonard Finethy spoke in favor of this application

Gary Innison spoke in favor of this application

Eric Brown spoke in opposition to this application

Ken Macleod spoke in opposition to this application

Brian Brouillette spoke in opposition to this application.

T. Morgan closed public input.

A. Hoover spoke in rebuttal regarding comments made by the public.

P. Monziona asked to have in the record a letter of November 3rd from a Mark and Carol Tyner, President and Treasurer of Peggy Cove's Association and direct abutters in opposition. He asked A. Hoover if he has seen the letter. A. Hoover stated no but he was not surprised about the letter.

P. Monziona stated for the record that he thinks the definition could be better.

P. Monziona made a motion that the application in the case of the Appeal of the Code Enforcement Officer's decision be denied and that the Code Enforcement Officer's decision be upheld. L. LaCourse seconded the motion which passed with five votes in favor and none opposed (T. Morgan, P. Monziona, L. LaCourse, P. Larochele and S. Miller)

Case #Z11- 22 Wallsten Road	Variance Map 59 Lot 1A	Richard Park Wallsten Trust Lakeshore Residential Zone
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On behalf of Richard Wallsten, Trustee, James M. Hambrook, L.L.S. is applying for a variance to permit a two lot subdivision with no road frontage for either lot. Each proposed lot has an existing residence. Access would be provided by continued use of an existing driveway.

J. Dever read the case into the record.

P. Monziona made a motion to accept the application for case #Z11-22 as complete. L. LaCourse seconded the motion which passed with five votes in favor and none opposed (T. Morgan, P. Monziona, L. LaCourse, P. Larochele and S. Miller).

Jim Hambrook, a land surveyor from Sandwich is representing Mr. Wallsten for his application for a variance to facilitate a subdivision of the property which is a 3.03 acre lot that has two single-family residences on it. He would like to subdivide so each residence has its own lot. He explained the history of the lot. He also explained how the Right of Way was developed to this lot.

WORKSHEET

All members agreed that the variance will not be contrary to the public interest.

All members agreed 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.

All members agreed that by granting the variance, substantial justice will be done.

All members agreed that the request will not diminish the value of the surrounding properties.

All members agreed no fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

P. Larochele made a motion that the Variance for Z11-22 be granted on the condition that this granting is based on the plans and representations made both orally and in the application with specific regard to the claim that a prescriptive Right-of-Way exists for those sections of Wallsten Road and the driveway for Lot 1-A which pass over the land of the Alton Conservation Commission. A second condition is that the applicant execute a waiver of liability. L. LaCourse seconded the motion which passed with five votes in favor and none opposed (T. Morgan, P. Monziona, L. LaCourse, P. Larochele and S. Miller).

VII. OTHER BUSINESS

- A. Previous Business: S. Miller has a conflict with the December 1st hearing. He will not be able to make it. T. Morgan decided that the meeting would go on with Mr. Kinnon.

B. New Business: The Zoning Amendments are moving along very well. They are very close to present them to the Planning Board.

J. Dever had the members sign the By-Laws.

C. Minutes: July 7, 2011 and October 6, 2011

L. LaCourse made a motion to approve the minutes of the July 7, 2011 as drafted. Motion was seconded by S. Miller and passed with three votes in favor and one abstain (P. Monzione).

S. Miller made a motion to approve the minutes of October 6, 2011 as presented. Motion was seconded by P. Larochelle and passed with three votes in favor and two abstain (P. Monzione and L. LaCourse).

D. Correspondence: A letter from October 31 the LRPC.

VIII. ADJOURNMENT

Paul Monzione made a motion to adjourn. P. Larochelle seconded the motion which passed with all votes in favor.

The meeting adjourned at 9:20 p.m.

The next regular ZBA meeting will be held on December 1, 2011, at 7:00 p.m.

Respectfully submitted,

Randy Sanborn
Recorder, Public Session