

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
November 6, 2014
Approved December 4, 2014**

I. CALL TO ORDER

Paul Monzione called the meeting to order at 7:02 p.m.

II. INTRODUCTION OF CODE ENFORCEMENT OFFICER AND ZONING BOARD MEMBERS

Paul Monzione, Chair, introduced himself and the members of the Zoning Board of Adjustment:
John Dever, Code Enforcement Officer
Tim Morgan, Member
Steve Miller, Member
Lou LaCourse, Member (joined the Board at 8:45 p.m. following a Selectmen's Budget Workshop)

P. Monzione explained to the applicants present that due to L. LaCourse's attendance at a Selectmen's Meeting and P. Larochelle's absence at this meeting, the Board was left with a 3-member quorum. Cases could be heard and adjudicated with just three members, but that all votes would have to be unanimous for an application to be granted. Any applicant would have the option to continue to another meeting without that continuance counting as one of the three allowed before the application process would have to start over.

S. Miller suggested giving the applicants an option to go forward with a three-member Board; if none wish to do so, L. LaCourse should be informed that he is needed to hear ZBA Cases.

III. APPOINTMENT OF ALTERNATE

There are no alternates at this time.

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 informed the Board that Robert and Joanne Wyszynski, the applicants of continued case Z14-18, Equitable Waiver of Dimensional Requirements for 83 Sunset Shore Drive, have requested a continuance to the meeting on December 4, 2014, thereby removing the case from the agenda. This continuance will count as one of the three allowed; the record will be reviewed to determine whether this is the first or second continuance to count against the application.

S. Miller made a motion to grant the request for continuance of Case Z14-18; motion was seconded by T. Morgan and passed unanimously.

S. Miller made a motion to approve the agenda as amended. T. Morgan seconded the motion which passed unanimously.

VI. NEW APPLICATIONS

Z14-25 Ronald J. Rubbico	Map 37/Lot 43	Special Exception 8 Notla Lane
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On behalf of Ronald J. Rubbico, Thomas W. Varney of Varney Engineering LLC is requesting a Special Exception to Article 300, Section 320 B.2.c. for a proposed construction of a basement below sill elevation and increased roof elevation within 30 foot setback to the lake. This property is located in the Lakeshore Residential Zone.

P. Monziona read the case into the record. Tom Varney of Varney Engineering came forward to present this case. Given the option to continue to a future meeting or proceed with a three member Board, Mr. Varney opted to have his case heard this evening, but did request that he be allowed to wait to see if L. LaCourse would join the Board at a later time. This case was moved down in the agenda to accommodate his request to wait for L. LaCourse.

Z14-26 and Z14-27 Allen and Elena Emory	Map 34/Lot 18	Special Exception and Variance 67 Rand Hill Road
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Allen and Elena Emory are requesting:

- 1. a Special Exception to Section 320 A.4. to replace an 832 sq. ft. cottage with a 2,016 sq. ft. cottage, and*
- 2. a Variance from Section 327 A.2. to permit the cottage to be rebuilt in the 25' setback from the road.*

This property is located in the Residential Zone.

P. Monziona read the case into the record. Allen Emory and Richard Smith of the Alton Bay Christian Conference Center came forward to present the application.

The application was reviewed for completeness. There was discussion concerning the deed, which is in the name of David Dejager. There is an authorization letter from Mr. Dejager and the Christian Conference Center for Mr. Emory to act as agent. Members discussed the various ownership and deed issues. The Emory's are the applicants of record; they are in the process of purchasing the property from Mr. Dejager. Mr. Dejager should be listed as the applicant, and that detail was corrected under Mr. Emory's agency.

T. Morgan made a motion to accept the application as complete upon changing the name of the applicant. S. Miller seconded the motion which passed unanimously. (3-0-0)

Mr. Emory introduced himself and Mr. Smith. Mr. Emory decided to go ahead with the applications as listed on the agenda; the Special Exception application was heard first.

Mr. Emory explained that the current cottage is now just a façade; the current owner has done some work but has suspended his efforts. Mr. Emory is in the process of purchasing the property.

P. Monziona informed the Board and applicant that he has a friendly relationship with Mr. Dejager; his children and the Dejagers' children went to school together and they do socialize as families. P. Monziona stated that despite that, he is confident he can go forward and rule objectively. There were no objections by the Board members or the applicant, or members of the public present.

Mr. Emory continued his explanation; the reason for the increase in size is due to the builder suggesting that the size of the building be increased to accommodate current stock building materials. The building was originally planned as 22 X 30' but was increased to 24 X 30' to make it more cost efficient. There is also water retention and ledge that will require building on a slab, and the entrance will be at the ground level.

S. Miller asked about the number of bedrooms; there will be three. S. Miller asked if the septic system can accommodate 3 bedrooms; Mr. Smith explained that with the loss of 43 cottages on the shared system at the Christian Conference Center, there is plenty of capacity.

S. Miller asked about heating fuel, which will be liquid propane. The applicant explained that it is his desire to have a 500 gallon tank buried, but if the ledge does not allow that, the tank will be properly located behind the cottage to the back right side near the garage. The applicant does not intend to reside there during the winter and wants a tank that will accommodate minimal heating to keep pipes from freezing. J. Dever explained that the permitting for a buried tank will come from the Fire Department and it will be inspected before the hole is filled.

The topography of the lot was discussed; there is a lot of ledge, and the property slopes up sharply right behind the original cottage. Ledge work will be minimal. The height of the ridge is 27.4' versus the old height of 17.6'. There is no plan to rent this out ever.

P. Monziona asked about bedrooms in the current structure; there are two, so this application would add one additional for a total of three. P. Monziona asked about the accommodation of the septic system; Mr. Smith explained that the loss of 43 cottages in the 2009 fire means that there is plenty of capacity. P. Monziona asked if any of the 43 cottages have been replaced; none of them have been replaced to date. P. Monziona asked about future replacement and consideration for additional bedrooms in structures sharing the septic system. Mr. Smith explained that there is an approved plan in place for a complete new septic system should there be a need.

P. Monziona conformed through questioning that the reason for this application is due to the non-conforming use caused by having more than one dwelling on a lot; every dwelling structure on the lot is non-conforming with the zoning regulations for that area. This is clearly not a new use; the use will remain a residential cottage, and it will not have a detrimental affect on the neighborhood. J. Dever explained for clarification that this is not the main conference center lot; this is a smaller lot owned by the Christian Conference Center. There is one other structure on the lot. The existing structure is only a few feet from the edge of the ROW; the new structure will be about 10' from the edge of the ROW but a little over 20' from the edge of the travelled way. The new structure will be less non-conforming to the ROW setback, but more non-conforming to the side setback.

Members and applicant discussed the increased non-conformity to the side setback, which would violate 320 A. 4. due to the statement that granting can not expand the use, and that the Special Exception will not be granted for a new use, will not have an increased detrimental impact on the neighborhood, and will not increase any existing non-conformity of setbacks or lot coverage. The new building will be 2.5 times the size of the existing building; the footprint is expanding even though most of the gain in space is on the second floor. The plan was used to determine the location of the lot and the placement of the dwelling on the lot as it impacts the setbacks.

The applicant explained that the existing porch will be eliminated from the new structure; the main entrance will be on the side toward the garage. There will be no entry to the street side. P. Monziona acknowledged that fact and used the plan to explain to the applicant that more of the new structure will be in the setbacks than is currently the case. Under 320 A.4. you can get the Special Exception as long as it does not increase any non-conformance, which this plan appears to do. The applicant agreed that the plan does appear to show that in black and white; he explained that he is trying to take a 1950's structure and make it 2014. The back of the lot is uphill and he can't go back any further. He is also restricted by the location of the other structure on the lot; if he moves in that direction, he will be just a few feet from it.

P. Monziona explained that the application for Variance could solve the issue, if it were heard first and granted.

T. Morgan questioned the application narrative which states that the applicant intends to use the cottage all times of the year, but during his presentation, he stated that he would not be using the cottage in the winter. Mr. Emory explained that they would like to leave it open to use on occasional weekends throughout the year, but do not intend to be in regular residence during the winter. Mr. Emory explained that he is not approved for Winter Approval from the Conference Center, but he may come up for an occasional weekend during the winter. T. Morgan asked if the applicant received a copy of the staff review; the head of the Water Works stated that year-round water could be a problem. Discussion concerning this issue resolved that there is water there year round, and the applicant could probably tie into that line.

P. Monziona explained that the winter approval from the Christian Conference Center is not really relevant to this application; this is going to be a year-round home, constructed and insulated as such. The applicant explained that it will be able to be used year-round, but that is not his intent. P. Monziona asked if the current structure is deemed by the town to be seasonal use; Mr. Smith explained that the current structure had above-ground water and no foundation, and that any heat would have been from space heaters. P. Monziona questioned whether tying into year-round water and building a year-round house would constitute an expansion of the use. He went on to explain that the rules of the Conference Center do not apply, as they are an association that could decide to change or expand their rules at any time. The structure could be sold in the future, and any decision made at this time would stay with the structure. P. Monziona stated that if the applicant would represent that the use will remain seasonal there would be no expansion of the use.

P. Monziona questioned whether the Variance for the setback would eliminate the non-conformity issue for the Special Exception. Members agreed that it would, but T. Morgan questioned whether the Variance requested would actually be broad enough as it does not include a variance for the side setback. Mr. Smith explained that the property sharing that line is also owned by the Christian Conference Center that carries an above-ground water line to Camp Adventure. The lot is wooded and steep. P. Monziona suggested to the Board that they suspend the Special Exception discussion and allow the applicant to present the case for the Variance, which if granted could eliminate the increased

non-conformity issue for the Special Exception. The only additional issue would be the expansion from seasonal to year-round use, which could be dealt with by representation that the use would remain seasonal or the addition of a condition stating the use would be seasonal. T. Morgan agreed with that, but questioned whether granting the variance for the setback from the road would actually solve the issue of the side setback.

Discussion continued as to the possible need for an additional Variance under 320 A.3. to address the side setback. J. Dever explained that all of the components were not visible until the survey came in, which was several days after the applications were submitted; there is no pin at the side line so he did not realize how close the proposed structure was to the side property line.

P. Monziona explained to the applicant that if a decision is made on both applications at this meeting, there would almost certainly be an adverse impact on the Special Exception application because the increased setback non-conformity would still be an issue. The applicant asked if the application could be amended at this time; P. Monziona explained that the applicant would have to continue, during which time he could amend his application to include a request from the side setback as well as the right of way setback. As presented, the application does not include the issue with the side setback; that can not just be added in now because proper abutter notice has to be given and members of the public have to be given the opportunity to address this request. P. Monziona explained to the applicant that the additional Variance would be under Section 320.A.3. for the side property line setback. S. Miller asked if Mr. Smith could represent the Christian Conference Center as the abutter land owner and receive notification now of the additional request. P. Monziona stated that there would have to be an agency letter regarding the application for that particular request, and that town departments and abutters could all have an opinion about the request for a variance to the side setback. Not following the legal process could jeopardize the future outcome of the decision, as it could be challenged based on incorrect procedure.

P. Monziona asked the applicant if he wanted to proceed or request continuance in order to amend the application to include the variance for the side boundary setback. T. Morgan agreed with P. Monziona's point about following procedure and the possible future ramifications of going outside of the proven process, which could turn out to be a disservice to the applicant.

After further discussion, the applicant decided to request a continuance to the meeting on December 4, 2014, in order to amend the application to include a request for variance to include the side property line setback.

S. Miller made a motion to approve the request for continuance of Cases Z14-26 and Z14-27. T. Morgan seconded the motion which passed unanimously. (3-0-0)

The Board went into a break at 8:00 p.m. and reconvened at 8:30 p.m. L. LaCourse still had not joined the Board.

Z14-25 Ronald J. Rubbico	Map 37/Lot 43	Special Exception 8 Notla Lane
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On behalf of Ronald J. Rubbico, Thomas W. Varney of Varney Engineering LLC is requesting a Special Exception to Article 300, Section 320 B.2.c. for a proposed construction of a basement below sill elevation and increased roof elevation within 30 foot setback to the lake. This property is located in the Lakeshore Residential Zone.

P. Monziona read the case into the record. J. Dever pointed out that the name of Notla Lane had been misspelled in the agenda.

The application was reviewed for completeness.

T. Morgan made a motion to accept the application as complete. S. Miller seconded the motion which passed unanimously. (3-0-0)

Tom Varney of Varney Engineering LLC came forward to present.

T. Morgan asked the applicant if he had reviewed the Department Head comments; Mr. Varney had not received a copy. T. Morgan asked J. Dever if he could make sure applicants receive a copy of the Department Head comments to review prior to their case being heard.

The Rubbico's purchased this cottage on Notla Lane; the cottage is 28 X 28' with a crawl space and an open deck on the front. The deck is 8 X 14' and is within the 28 X 28 footprint. The Rubbico's would like to remodel, including addition of a full foundation under the cottage within the existing footprint. This will improve the integrity of the building and provide more living space. The sill will remain at the same elevation. The two bedrooms on the main floor will be moved into the new basement; it will remain a two bedroom cottage.

The existing enclosed porch on the front of the house is to have a new roofline due to replacement of the existing shed roof with a pitched roof. The pitch of the main roof will increase; the pitched roof will extend over the back of the building to cover 8' along the 41' existing deck.

A new state-approved septic system is being installed and storm water management measures are proposed in the DES Shoreline Permit approval. The lot is steep and the cottage is near the lake; it is 17 feet from the lake.

Last year they had approvals for a larger house, but now have decided to leave the cottage pretty much as is with a new foundation and roofline; it is still going to be a cottage. Currently, it is an old cottage with no insulation and not much room; it is basically an old-fashioned camp.

The proposal is to do storm water measures around it, but no expansion of the footprint. The decks stay the same; it is just work below the sill and the change in the roofline. Mr. Varney showed the architects renderings and added that the septic is pending approval and the Shoreline Permit is being revised.

T. Morgan asked about the chimney; the rendering indicates that the chimney will be raised 6 feet. He asked how much the roof will be raised by increasing the pitch. T. Varney answered that the increase will be 7 feet. It will remain under the 35' height limit. T. Morgan asked if there is anyone behind this property who will have their view blocked by the increased height of the new roof. T. Varney explained that from the driveway and the road, you can look right out over the cottage. Additionally, there is no one to either side who will be affected. T. Varney stated that the roof is already there; the new roof may add four or five feet. Standing 10 feet behind the cottage, you can see over the top of it, so it will not block any view.

P. Monziona asked for clarification of the photos with regard to the lake setback. There will be no further encroachment, as the footprint is not expanding. P. Monziona referred to the Department Head comments and the Fire Department concerning egress from the two bedrooms in the basement; J.

Dever pointed out that the plan shows that there will be a door leading outside from each of the bedrooms, which meets the requirements. T. Varney stated that he does not know if the egress from the bedrooms are windows or doors; J. Dever stated that on the plan, they look like doors.

There was no Public Input for this case.

WORKSHEET

P. Monziona stated that a plat has been accepted in accordance with the Town of Alton Zoning Ordinance 520B. All members agreed.

S. Miller stated that the specific site is an appropriate site for the planned use; this is a lakeshore residential cottage. The use has not changed and this is just the addition of a foundation under the cottage. T. Morgan and P. Monziona agreed.

T. Morgan stated that factual evidence is not found that property values in the area will be reduced due to incompatible uses. There was no testimony in regard to any change in property values, but it seems intuitive that if the place is being improved, it should help property values. P. Monziona and S. Miller agreed.

P. Monziona stated that there are no valid objections from abutters, based on demonstrable fact. No abutter showed up to object, and it seems to him that since this is an improvement, there should be no objections. S. Miller and T. Morgan agreed.

S. Miller stated that there is no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking; there is no expansion of the footprint, and the property will remain except for the enclosed foundation and the raised roofline. T. Morgan and P. Monziona agreed.

T. Morgan stated that adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure; there is no change to the proposed use requiring any other facilities or utilities. P. Monziona agreed and added that there is reference made to a new septic system, and no bedrooms are being added. S. Miller agreed; it is still the same two bedroom house.

P. Monziona stated that there is adequate area for safe and sanitary sewage disposal and water supply, for all the same reasons just described. S. Miller and T. Morgan both agreed.

S. Miller stated that the proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan; it is Lakeshore Residential and nothing is changing about that. Everything is consistent. T. Morgan and P. Monziona agreed.

T. Morgan made a motion to approve the application for Case Z14-25 for Special Exception. S. Miller seconded the motion with a requested amendment that the suggestions of the Fire Inspector's letter of October 23, 2014, addressed to Mr. Rubbico and signed by Fire Chief Ridley, be made a condition of the approval. T. Morgan agreed to amend the motion. The motion passed unanimously. (3-0-0)

VII. OTHER BUSINESS

L. LaCourse joined the Board at 8:45 p.m.

- A. Previous Business: None
- B. New Business: Staff reviews are to be given to the applicants prior to their case being heard. P. Monziona complimented the addition of the zoning regulations to the staff reviews.

The January meeting will be the second Thursday instead of the first Thursday, as the first Thursday falls on New Year's Day. S. Miller suggested checking the schedule for public hearings going into Town Meeting.

- C. Minutes: October 2, 2014 – Cases Z14-20 and Z14-21 – all references to Brad Lentz or Mr. Lentz should be Brad Lynch or Mr. Lynch.

Page 2, 2nd full paragraph, 4th line down reads "...Mr. Lentz the present..." should be ...Mr. Lynch to present..."

Page 5, 2nd paragraph, first line – P. Monziona stated that there is **not** adequate area for safe and sanitary sewage disposal and water supply.

Page 8, 2nd full paragraph, last line, "regarding" should be "regrading"

Page 8 – Both references to "Son" tubes should be "Sono" tubes. These references are in the 3rd and 6th paragraphs.

Page 10 – First full paragraph, 2nd line, "wit" should be "with".

S. Miller made a motion to approve the minutes as amended; T. Morgan seconded the motion which passed with three votes in favor and one abstention (L. LaCourse).

- D. Correspondence: None

VIII. ADJOURNMENT

L. LaCourse made a motion to adjourn; the motion was seconded by T. Morgan and passed unanimously.

The meeting adjourned at 9:00 p.m. The next regular ZBA meeting will be held on December 4, 2014, at 7:00 p.m. at the Alton Town Hall.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session