

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
January 7, 2021, at 6:00 P.M.
Alton Town Hall**

UNTIL FURTHER NOTICE: To keep the public, our members, and our staff safe, and to comply with RSA 91-A, the CoVID-19 State of Emergency, and the Governor's Orders on restrictions on public gatherings, the Town of Alton has moved from "in-person" meetings to "remote audio participation meetings", therefore, providing each meeting to the public via a live audio conference. Please refer to "News and Announcements" on the Town's website, www.alton.nh.gov, to either locate the Call-in telephone number, Webinar ID, and Password to listen in via audio only, or to locate the link to connect via Zoom and register for a live video stream of the meeting in progress. You may also contact the office at plansec@alton.nh.gov, or by telephone at (603) 875-2162 between 8:00 A.M. to 4:30 P.M., Monday - Friday, for the Call-in number and Zoom link for each meeting. We strongly encourage everyone attend our meetings remotely. Should you have a need to attend in person, we will make a remote location available upon a reservation request by you to this office NO LATER THAN TWO (2) BUSINESS DAYS in advance of the meeting date.

Members Present

Frank Rich, Chairman
Thomas Lee, Vice Chair
Paul Monzione, member
Paul LaRochelle, Selectman's Representative/clerk
Tim Morgan, member – absent
Mike Hepworth, alternate member – via Zoom

Others Present

John Dever, III, Code Enforcement Officer
Keith Dube, applicant – via Zoom
Chris Boldt, representative for applicant – via Zoom
Maggie Long, applicant – via Zoom
Tim Long, applicant – via Zoom
Nicole Roseberry, Ames Associates - via Zoom
Liz Venus, LSV Architects – via Zoom
Robert Broughton, applicant – via Zoom
Janet Broughton, applicant – via Zoom
George Stevens, applicant - via Zoom
Carol Stevens, applicant - via Zoom
Brad Jones, Jones and Beach Engineering – via Zoom

CALL TO ORDER

Chair Rich called the meeting to order at 6:00pm. (See Attachment 1)

INTRODUCTION OF BOARD MEMBERS

Roll Call was taken for the Board members and individuals present at Town Hall and via Zoom.

APPOINTMENT OF ALTERNATES

Mr. Monzione made a motion to appoint Mike Hepworth as a member of the Zoning Board of Adjustment for this evening's meeting. Mr. LaRochelle seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 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

The Board reviewed the Agenda. No changes were made.

Mr. Lee made a motion to approve the Agenda as presented. Mr. Monzione seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

NEW APPLICATIONS

Case #Z21-01 Piper Dube LLC/ Keith Dube, Owner	Map 2 Lot 21	Variance Rural (RU) Zone 800 Suncook Valley Road
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A **Variance** is requested from **Article 300, Section 319 B.7 (b.)** of the Zoning Ordinance to permit an accessory dwelling unit to exceed the 35% of the total finished floor space of the principle dwelling unit by approximately 56 sq. ft.

Chair Rich read the case into the record. The Board reviewed the application for completeness.

Mr. Lee made a motion to accept the application for Case #Z21-01 as complete. Mr. Monzione seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

Keith Dube, applicant, stated the garage was built over the summer and there is a first floor in-law apartment which his father moved into. He stated the original plans showed a house on the property in case of a future need other than the in-law apartment. Mr. Dube stated he is working

with engineers to design self-storage on the property. He stated the plans for the second floor apartment/in-law apartment is about 800 square feet and exceeds the 35% and is about 38% so is looking to have the extra 56 square feet without changing the plans around too much. Instead of a second home on the property, self-storage may be constructed. Mr. Dube stated the septic is built for five bedrooms and there would only be 3 in the building. There are no major changes to the building and everything would be internal.

Mr. Monziona stated section 319 allows for an accessory dwelling unit is permitted it can't exceed 35% of the principle dwelling unit and asked if there is a principle dwelling unit. Mr. Dube stated the principle dwelling was to be the house indicated on the plans which will be removed and the upstairs apartment would be considered the primary dwelling as its larger. It was clarified there is no separate house and the apartment on the second floor would be considered the primary dwelling for the purposes of the ADU. The ground floor apartment is about 38% currently; it as noted a house would no longer be permitted if the second apartment is made the primary dwelling.

Mr. LaRochelle noted the Fire Department had concerns regarding egress in the first floor apartment where two doors swing into either other. Mr. Dube stated there are four egresses in that apartment; he noted smoke and CO detectors are hard-wired in both floors.

Chair Rich opened the hearing to input from the public in favor of the application. None was indicated.

Chair Rich opened the hearing to input from anyone in opposition to the application. None was indicated.

Chair Rich closed public input.

Discussion Case #Z21-01

The Board must find that all the following conditions are met in order to grant the Variance:

Mr. Monziona stated granting the variance **would not** be contrary to the public interest. He stated an accessory dwelling unit is permitted on this lot and its only a 3% increase in square footage for compliance. The Board agreed.

Chair Rich stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. The Board agreed.

Mr. LaRochelle stated that by granting the variance, substantial justice **will be** done. The Board agreed.

Mr. LaRochelle stated the values of surrounding properties **will not be** diminished. The Board agreed.

Chair Rich stated that for the 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.*

Mr. Hepworth stated there is no change to the outside of the structure and the use is reasonable. The Board agreed.

Mr. Monzione made a motion to grant the request for a Variance for Case #Z21-01 with the condition that the applicant address and meet the concerns outlined by the Fire Department. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Hepworth- aye; Mr. LaRochelle – aye; Vice Chair Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case# Z21-02 Christopher Boldt, Esq., of Donahue, Tucker & Ciandella, PLLC Agent for Mehrnaz Aghvami-Long, Trustee of Mehrnaz Aghvami-Long Rev. Trust	Map 64 Lot 17	Special Exception Lakeshore Residential (LR) Zone 158 Smith Point Rd.
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A **Special Exception** from the **Zoning Ordinance** is requested from:
Article 300, Section 320 (J.) to permit the replacement of a nonconforming structure that is voluntarily removed; and **Article 300, Section 320 (D.)** to permit the expansion of a non-conforming use in the Lakeshore Residential Zone for the replacement of an existing guest house.

Chair Rich read the case into the record. The Board reviewed the application for completeness.

Mr. Monzione made a motion to accept the application for Case #Z21-02 as complete. Mr. LaRochelle seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

Chris Boldt, representative for Maggie and Tim Long, presented maps and pictures of the area in question which is a long-standing, two-bedroom guest house. The plans are to renovate the guest house. He stated it is very non-conforming, nearly all within the 30' setback, the lot existing prior to the zoning ordinances. Mr. Boldt stated the lot does have three structures on it but the number of bedrooms is not changing. He stated they have added a "to the extent necessary" clause in the application, to cover the provisions of section 320.d. It was noted this is a steep lot, on the waterfront. The setback would be increased by 1'.

Mr. Monzione stated it's an expansion of use by expanding the structure; it was confirmed the proposed structure would be one story of living space with storage area below. Mr. Boldt noted there is no interior stairway to connect the first floor to the basement. He outlined the proposed excavation and storm water management measures as well as the planting and siltation measures. Mr. Boldt stated they are still waiting for NH DES approval.

Mr. Dever noted the existing elevation is 25'; the proposed structure at the lake side has a proposed height of 31.5' for an increase of about 5.5' change. At the rear, the existing height from grade is 16.4' and the proposed is 23.8' for a 7' change. It was noted the baseline of the house at the back moves with the grade. Mr. Monziona asked if the entire structure could be moved back to reduce the encroachment in the shoreline buffer zone. Mr. Boldt stated he doesn't think so due to the grade and slope there. It was noted the existing deck is 6.6' and is covered; the proposed deck will be 12' x24' and covered. The overall encroachment on the shoreline will be reduced by 1'.

Mr. Lee asked if the abutters to the left and right have been contacted and plans were shared with them, particularly in regards to the height change and asked for confirmation the lot behind is also the Longs' property. Mr. Dever confirmed. Mr. Lee noted the Conservation Commission had comments regarding the proposed plans. Mr. Dever stated the comments were in regards to making it more non-conforming physically, however it is not; whether it is more non-conforming in regards to the NH DES shoreline permit will be determined by the State. He stated the expansion is occurring within the building envelope.

Mr. Monziona noted the section requires to the extent feasible, that the applicant reduce the nonconforming aspect and they should explore all aspects for what is feasible. He suggested eliminating the porch would be less non-confirming but it would render the place unusable in terms of using it the way it has historically been used.

Mr. LaRochelle asked how far the roofline would extend over the deck. It was noted it was pulled in as tight as possible with the least overhang.

Chair Rich opened the hearing to input from the public in favor of the application. None was indicated.

Chair Rich opened the hearing to input from anyone in opposition to the application. None was indicated. Mr. Bolt stated a letter was sent by abutter Alan Poznick, in support of the project. Mr. Dever noted it was not received. Mr. Bolt read the letter into the record.

Chair Rich closed public input.

Discussion – Case #Z21-02

The Board must find that all the following conditions are met in order to grant the Special Exception:

Mr. LaRochelle stated that a plat/plan **has** been submitted in accordance with the appropriate criteria in the Zoning Ordinance, Article 520.B. The Board agreed.

Mr. Lee stated the specific site **is** an appropriate location for the use. He stated the use is not changing; the plans are detailed and it will be an upgrade to the property. The Board agreed.

Chair Rich stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. There is no incompatible land use and no evidence of decrease in values; the existing home value will be increased. The Board agreed.

Mr. Monziona stated there **is no** valid objection from abutters based on demonstrable fact. No abutters came forward and no letters or communications in opposition were received. The Board agreed.

Chair Rich stated 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. The Board agreed.

Mr. LaRochelle stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. The Board agreed.

Mr. Lee stated there **is** adequate area for safe and sanitary sewage disposal and water supply. The Board agreed.

Chair Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Monzione made a motion to grant the request for a Special Exception for Case #Z21-02 with the condition the applicant receives all appropriate approvals from NH DES. Mr. LaRochelle seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth -aye; Mr. LaRochelle – aye; Vice Chair Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case# Z21-03 Bradford Jones, Jones & Beach Engineers, Inc. Agent for George & Carol Stevens, Michael Stevens Jr., & Robert & Janet Broughton, Robert C. Broughton ½ Int. Trust, Janet A. Broughton ½ Int. Trust, Owners	Map 41 Lot 31 & 32	Variance Lakeshore Residential (LR) Zone 14 & 20 Sand Peep Lane
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A **Variance** is requested from **Article 400, Section 410 A. & 410 B.1 (b)** of the Zoning Ordinance to permit a lot that does not meet the 30,000 sf. lot area requirement as well as the 150 ft. minimum shoreline requirement.

Chair Rich read the case into the record. The Board reviewed the application for completeness.

Mr. LaRochelle made a motion to accept the application for Case #Z21-03 as complete. Mr. Monzione seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

Brad Jones, Jones and Beach Engineering, stated these plans were presented to the Planning Board but they were advised to go back to the ZBA as the lot line adjustments will not meet the current zoning regulations, including the frontage on the lakeside and the total area. Mr. Jones stated the new home will be mostly built where the current home is but the new one will better meet setback requirements. He stated the old structure will need to be removed due to the condition of the foundation, and a new one constructed. Mr. Jones stated a new septic system will be installed.

Mr. Jones explained they are looking to do a lot line adjustment to even off the lot and give the applicants a little more room for the plans. The current size of the lot is 12,196 square feet and they want to increase that to 16,117 square feet.

Mr. Monzione noted before the new home can be built, the applicant will need to come back as it will be non-conforming. Mr. Jones confirmed that. He stated he has been working on the footprint with NH DES relative to the encroachment on the 50' setback. Mr. Monzione summarized the lot line adjustment would be adding some area at the back of the lot to allow for future use and that two new lots will be created with this. He noted 150' of shoreline would then be needed and necessitating a variance; the lots have been in existence predating the zoning requirements, and the reason for the application is to make them less nonconforming.

Chair Rich opened the hearing to input from the public in favor of the application. Mr. Stevens stated in 2019 they did a lot line adjustment which annexed 1.14 acres to their property and never encountered any situation for a variance because they didn't have 150'. Mr. Jones noted this would correct that as it was an oversight.

Chair Rich opened the hearing to input from anyone in opposition to the application. None was indicated.

Chair Rich closed public input.

Mr. Monzione explained this section was established due to concerns about new lots being created and required 150' shorefront along with 30,000 square feet; he stated these lots were created prior to zoning and it is boundary line adjustment to allow the lots to be more usable. He doesn't think this runs contrary to the purpose of the zoning ordinances in this case.

Discussion Case #Z21-03

The Board must find that all the following conditions are met in order to grant the Variance:

Mr. Lee stated granting the variance **would not** be contrary to the public interest. The Board agreed.

Chair Rich stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. The Board agreed.

Mr. LaRochelle stated that by granting the variance, substantial justice **will be** done. He stated the lot line adjustment is to make the lot less nonconforming and to work with NH DES septic system requirements. The Board agreed.

Chair Rich stated the values of surrounding properties **will not be** diminished. The Board agreed.

Mr. Monzione stated that for the purposes of this subparagraph, "*unnecessary hardship*" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- iii. *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;*
- iv. *The proposed use is a reasonable one.*

Mr. Monzione stated the use is reasonable. The Board agreed.

Mr. Monzione made a motion to grant the request for a Variance for Case #Z21-03 with the condition that all necessary approvals are obtained from the State of New Hampshire, including NH DES. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Hepworth– aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

OTHER BUSINESS

1. Previous Business:

2021 Proposed Zoning Amendments (Proposed Amendment #4 scheduled for a Second Public Hearing

Mr. Dever presented a copy for review by the Board of the proposed Zoning Amendments and stated this would be going to Public Hearing on January 14, 2021.

APPROVAL OF MINUTES

Meeting of December 3, 2020 – No edits were made.

Mr. LaRochelle made a motion to approve the minutes as presented. Mr. Lee seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

ADJOURN

Mr. Monzione made a motion to adjourn. Mr. Hepworth seconded the motion. Roll Call Vote: Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye; Vice Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

The meeting was adjourned at 8:55pm.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary

PREAMBLE

As Chair of the Alton Zoning Board of Adjustment, due to the COVID-19/Coronavirus crisis, and in accordance with Governor Sununu's Emergency Order #12, pursuant to Executive Order 2020-04, this Board is authorized to meet electronically, and these reasons shall be reflected in the minutes.

The Town of Alton has moved from "in-person" meetings to "remote audio participation meetings" until further notice, therefore, there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. **We strongly encourage everyone attend our meetings remotely. Should you have a need to attend in person, we will make a remote location available upon a reservation request by you to this office NO LATER THAN TWO (2) BUSINESS DAYS in advance of the meeting date.**

However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone:

Members of the public wishing to attend this meeting electronically may call the conference call number from home. Follow the instructions listed under "News and Announcements" on the town's website: www.alton.nh.gov.

b) Providing additional public access by video or other electronic means:

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through the link that is listed under "News and Announcements" on the town's website.

c) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to abutters and the public of how to access the meeting via telephone conference and by using Zoom.

d) Providing a mechanism for the public to alert the public body during the meeting that a member of the public wishes to speak or be recognized during public input at a public hearing:

If you are calling in by conference call, press the "star" sign and then "9" to "raise your hand" to request to speak to the Board. If you are using a computer, use the "raise hand button" to request to speak to the Board. Several members of the public may be conferenced in, and requests to speak will be handled sequentially, one at a time. The Zoom Moderator will allow you to speak when the Board opens public input.

e) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem accessing the meeting, please call (603) 507-1002.

f) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting remotely, or there are difficulties with the Town's equipment the meeting will be adjourned and rescheduled to Thursday, February 4, 2021, starting at 6:00 P.M. at the Alton Town Hall.

You may call the Planning Department at (603) 875-2162 between 8:00 A.M. and 4:30 P.M. Monday - Friday for more information, and for the Dial-in Code and Meeting ID for each Planning Board meeting.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their presence, also please state whether there is anyone in the room with you during this meeting, which is also required under the Right-to-Know law.