

**TOWN OF ALTON PLANNING BOARD  
PUBLIC HEARING  
ZONING AMENDMENTS  
Public Hearing Minutes  
January 11, 2011  
Approved as amended 3/15/11**

**Members Present:** Tim Roy, Chair  
Scott Williams, Member  
Bill Curtin, Member  
Cindy Balcius, Member  
David Collier, Member  
David Hussey, Selectmen's Representative (arrived at 6:30 p.m.)

**ZBA Members Present:** Tim Morgan, Member  
Paul Monziona, Chair

**Others Present:** John Dever, Code Enforcement Officer  
Mike Garrepy, Interim Town Planner  
Ken McWilliams, Town of Alton Planner  
Randy Sanborn, Secretary, Planning Department  
Bob Longbauer, Videographer  
Members of the Public

**I. CALL TO ORDER**

T. Roy, Chair, called the Public Hearing to order at 6:00 p.m.

**II. APPOINTMENT OF ALTERNATES**

There are no Planning Board Alternates to appoint.

**III. APPROVAL OF AGENDA**

The Planning Board held a Public Hearing on December 20, 2010, to discuss 11 zoning amendments. At that meeting several of the proposed amendments were modified; as a result of modification those amendments had to be re-noticed and this, the second hearing, had to be held. Unfortunately, due to an error, some of the amendments did not receive the proper notice, so those amendments can not go forward as amended on December 20, 2010.

Amendment #1 will go forward as amended for further discussion on December 20, 2010.

Amendment #2 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #3 will be discussed this evening; this is relative to function facilities being added to the Table of Uses. However, adding them as a conditional use in three of the proposed zones (Residential, Lakeshore Residential, and Residential Commercial) will not be discussed because of improper notice.

Amendment #4 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #5 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #6 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #7 was voted not to be advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #8 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #9 was advanced to the ballot during the Public Hearing on December 20, 2010.

Amendment #10 which was to amend Aircraft Takeoffs and Landings to more zones than was previously noticed; only the two zones previously contemplated (Rural Residential and Rural) can be further discussed at this public hearing.

Amendment #11 with respect to non-conforming uses, only Subsection B (c), the change of language proposed on December 20, 2010, will not be discussed this evening; other changes made at the public hearing on December 20, 2010 will be discussed.

**S. Williams made a motion to approve the agenda as amended. D. Collier seconded the motion which passed with 5 votes in favor and none opposed.**

#### IV. PUBLIC INPUT

Tim Morgan asked if there would be an opportunity to re-notice the amendments that can not be heard tonight due to improper notification for this public hearing. M. Garrepy responded that there is not enough time for proper notice prior to the Deliberative Session.

#### V. PUBLIC HEARINGS

<b>Case #P10-15 Debbie Glazier</b>	<b>Map 6 Lot 17-1</b>	<b>Continuation of Major Site Plan 640 Suncook Valley Road</b>
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Cindy Balcius and Scott Williams did a site walk of the property; they noted the need for erosion control on the embankment abutting Route 28 South, a ditch line with erosion control stone and fabric, the southerly edge of the paddock area needs to have some stone, and some other gentle erosion control measures need to be put in place. Additionally, the dumpster needs to be moved. Planning Board members and the applicant agreed that this was a good summation of the discussion. T. Roy clarified that the site walk had been done mainly to assess the waiver requests for storm water and erosion control and for engineered plans; M. Garrepy agreed and added that it was also to give the members familiarity with the site.

M. Garrepy explained that the application has been accepted conditioned on granting of the waivers; he suggested a discussion of what is proposed on the plan, consideration of the waiver for the drainage and for the full engineered site plan, and have the applicant go over the proposed conditions with the Board. He also stated that there may be consideration for wanting more dogs than had previously been discussed. He further suggested continuing the application to January 18, 2011, so that staff can come up with conditions of approval and make sure all necessary waivers have been identified.

S. Williams added that his feeling on the site walk had been that the only downfall would be monitoring the noise. C. Balcius added that she had been looking at the Best Management Practices for Agriculture and noted that there is a section for pet waste; she would add as part of the approval that the applicant should follow those BMP's. They are common sense and use of a dumpster, which is the applicant's intent, is allowed in the BMP's.

**S. Williams made a motion to grant the waiver for Section 4.12 Storm Water Management and Erosion Control and Drainage. W. Curtin seconded the motion which passed with five votes in favor and none opposed.**

M. Garrepy requested continuing to January 18, 2011 so that all waiver requests can be reviewed. Board members noted that the Board has already gone through the waivers; they would like to proceed and get this application finished tonight, if feasible.

Randy Couch went over the changes made to the property. The driveway access has been improved with a new DOT curb cut and the parking below is new. There will be additional pole and building lighting. There will be rip-rap added along the side of 28, and the paddock area will get ¾ inch stone. The kennel was extended another 20 feet for the turn-out area, and there is a fenced in area down below for a play area. Employee parking is unchanged. Some fences have been added; the horse corral is personal.

Debbie Glazier stated that she would like to be approved for 20 dogs; eight as previously discussed will not be profitable. She has her dog and the dogs of family and friends; eight will not work. She has applied for 36 the first time around and feels that 20 would be a good compromise. C. Balcius commented that 20 is a substantial change since the last meeting where eight were discussed. S. Williams added that at the site walk, the applicant had mentioned wanting to increase the number of dogs allowed. Debbie Glazier acknowledged that noise will be the major issue, but she knows she can keep it under control. Most of the time,

the dogs will be inside unless they are being exercised. The maximum would be 20; she is estimating no more than 6 a day but would like to be granted 20 in case of holidays. There will be three overnight kennels; during the day the dogs will be in playrooms. The overnight cases will be only in an emergency. W. Curtin voiced the concern that anyone who watched the last meeting and only heard conversation about 8 dogs might not have been concerned to come to this meeting; now the request is being raised to twenty dogs. Debbie Glazier explained that the major concern with 20 dogs is noise; even a private citizen with 20 dogs would have to be concerned about noise. She will make sure the dogs are quiet. C. Balcius suggested going for eight dogs now and them coming back for an amended site plan later if it seems like everything points that way. Debbie Glazier agreed to start with eight and increase later via an amended site plan.

D. Collier mentioned that any drainage issues that occur in the future will have to be addressed; he would like that to be a condition of the approval. Members agreed this would be agreeable.

M. Garrepy mentioned that there are a few other waivers that were requested, but are somewhat duplicative of the one previously granted. Section 3.04 refers to erosion control, section 4.03 is storm water and erosion control, and 4.04 is a traffic impact analysis, which the Board felt would not be necessary due to low traffic volume. M. Garrepy suggested granting the waivers to maintain consistency.

**S. Williams made a motion to grant waivers for Sections 3.04, 4.03, 4.04. W. Curtin seconded the motion which passed with five votes in favor and none opposed.**

**(D. Hussey arrived at this time – 6:30 p.m.)**

M. Garrepy went over the conditions of approval he is proposing. 1 - For pet waste, BMP's per the Best Management Practices for Agriculture in New Hampshire will be followed (this included use of a dumpster, which is what the applicant intends to use). 2 - Eight dogs not licensed to the owner will be the limit. 3 - When dogs are outside, they will be supervised at all times. 4 - Drainage issues that arise in the future will be subject to a Compliance Hearing by the Planning Board.

T. Roy opened the floor to public input regarding this case; there was none.

**S. Williams made a motion to approve Case #P10-15, Map 6 Lot 17-1, Debbie Glazier, with the following conditions:**

- 1 – Pet waste will be disposed of per the *Manual of Best Management Practices for Agriculture in New Hampshire***
- 2 – The number of dogs will be limited to eight dogs not owned by the owner of the property.**
- 3 – All dogs will be supervised when outside the building.**
- 4 – Any drainage issues identified in the future will be subject to a Compliance Hearing by the Planning Board.**

**W. Curtin seconded the motion which passed with 6 votes in favor and none opposed.**

### **Zoning Amendments**

Proposed Amendment #1 was revised at the Public Hearing on December 20, 2011. M. Garrepy explained the legend for the text in the amendments. The change at the last Public Hearing was to remove reference to the application of septage from the definition of Agriculture as defined by RSA 21:34-a.

T. Roy opened the floor to public input; there was none.

**W. Curtin made a motion to advance Amendment #1 to the ballot. C. Balcius seconded the motion which passed with 6 votes in favor and none opposed.**

Proposed Amendment #3 is to amend Article 200 to add the definition of "Function Facility" and amending Article 400, Section 401 by adding "Function Facility" to the Table of Uses as a use allowed by Conditional Use Permit in accordance with RSA 674:21 in the Rural Residential, Rural, and Recreational Service Zones.

Changes to the text were appropriate and consistent with the notice in the paper. The part that cannot be considered would be to allow the function facility use by conditional use permit in the Residential, Lakeshore Residential, and Residential Commercial zones; this is due to the improper notice mentioned earlier.

T. Roy opened the floor to public input.

Tim Morgan asked what was properly noticed and what wasn't; when this was proposed at the first public hearing, there were two types of facilities – indoor and outdoor. The indoor and outdoor differentiation was struck at that public hearing, but at the time they had that differentiation there were four areas that were allowed to have it by conditional use. He asked if one of those that had been noticed last time had not been noticed this time. M. Garrepy explained that the notice that was sent out was a notice for both public hearings; what was not re-noticed for the second hearing was some of the changes that were made after the original dual notice. Tim Morgan pointed out that outdoor function facilities had been proposed in the Residential Commercial zone in the original notice; he showed this to M. Garrepy. T. Morgan asked if, because of the way it is drafted now, a tent could be used. M. Garrepy answered that a tent could be allowed for certain aspect of a function facility; how that had been changed was that parts of the function could take place outside under a tent, as long as the outdoor noise was limited, and there was an indoor facility for the noisier aspects. T. Morgan asked who would determine excessive noise; M. Garrepy noted that when considering a Conditional Use Permit the Planning Board would consider frequency of events, mitigation of noise, traffic and parking management plans, hours of operation, impact on abutting properties, and all would be subject to major site plan review. T. Morgan noted that there was a seventh criterion discussed at the last public hearing; there would be a review for use of a tent at the time of the conditional use permit. C. Balcius recalled the discussion but did not recall specifically adding it to the list of criteria. M. Garrepy read the text of the amendment into the record along with the conditional use permit criterion as specified above. T. Morgan asked how someone applying for a conditional use permit would know from that definition what use could be made of tents at a function facility. C. Balcius noted that she has found in her notes that the item #7 mentioned by T. Morgan had been agreed upon by the Board. M. Garrepy did not consider that a substantive change; they have added here that there would be limited outdoor activities associated with a function facility; that item is covered here and therefore it would not be a big change to add the #7 under discussion. T. Morgan again voiced his concern that the definition seems to indicate that the function had to be within a structure. M. Garrepy noted that there had been some language indicating that the function would have to be entirely within a building; the definition was changed to read that functions shall be located within a building or enclosed permanent structure. T. Morgan felt that "shall" is a very strong word. M. Garrepy voiced understanding but pointed to the further language that indicates that limited outdoor activities associated with the function facility such as a wedding ceremony may be permitted by the Planning Board so long as it is determined to not cause excessive noise. T. Morgan again stated his feeling that "shall" is a very strong word; it could be interpreted to be exclusive of what is being explained below. C. Balcius agreed; a different Planning Board or Code Enforcement Officer could interpret it a different way. The intent had been to eliminate the vagueness; it was specifically to show the issues an applicant would have to address when bringing this type of project forward.

D. Hussey asked if the lack of proper notice would mean that this would go back to the original language. S. Williams expanded on that; he chaired the previous Public Hearing where a petition was brought forward to amend the article. He checked the names of the persons who signed the petition; one of the signers is a member of the Planning Board and that person did not recuse. The process, in his thinking, was mitigated a little bit. He spoke to Ken McWilliams who agreed with him. It is his thinking now that the amendment to this article should be dropped and it should revert back to the original wording. C. Balcius pointed out that it was not a legal petition; it was a suggestion of language. M. Garrepy stated that it was a petition to the Planning Board; it was not a petition advanced by the citizens for an amendment to the ordinance. He did agree that if a member of the Board signed that petition, that member should have recused from the vote. There was further discussion concerning this issue. C. Balcius stated that she has no problem with recusing herself; she also stated that there are other Board members who have conflict on this subject. M. Garrepy noted that it is up to individual members to recuse; the Board does not have the authority to compel a member to recuse.

T. Morgan noted that the changes at the last meeting would restrict these outside events in the rural zone; he feels that the original definition was a good and well thought out definition of a function facility. He would suggest going back to the original definition as it was addressed at the last meeting.

C. Balcius pointed out that the change as suggested by the petition is exactly what she would have brought forward sitting on the Board; she asked why Attorney Sessler could not rule on this. She does not feel she has any more conflict than any of the other Board members who have attended functions at non-approved sites. There was further discussion. D. Hussey asked for clarification on whether everyone was talking about the same thing; this is zoning amendment discussion not a case.

**T. Roy polled the Board concerning the language to be considered for proposed Amendment #1; the majority of the Board members came down on the side of going back to the original proposed language for this amendment.**

S. Williams read a letter from Helene and Charlie Shields; they are in support of both Sunny Slope Farm and Lake Knoll Farm being allowed to hold functions. They live across from Sunny Slope Farm; they have not had a problem or complaint. They also want to support the concept of allowing people to rent their land to hold outdoor events and festivities of all types. As long as the traffic does not block the access of abutters, there should not be any problems. They feel that by-laws to regulate these types of

events would be intrusive and unnecessary. Outdoor events, even if a fee is involved, would be a good use of the local farms and would help property owners continue to afford their farms.

T. Roy continued public input. P. Monziona is Chair of the Zoning Board of Adjustment, but is here simply as a citizen of the town. He is trying to understand what is happening; it would be helpful if the Board could clarify some issues. Based on the vote that the Board just took, the language of the proposed amendment is going back to what was originally drafted. Public input will go forward but no changes can actually be made to the language; the only decision is whether the amendment will go forward as originally presented, or not at all. The language concerning limited outdoor activity is out because the amendment is going back to what was originally drafted. P. Monziona asked what a conditional use permit is and how the process works. He knows that applicant would come before the Planning Board; the Planning Board would decide whether to approve the conditional use permit which would run with the land. M. Garrepy added that a conditional use permit is similar to a special exception; he has always encouraged moving away from special exceptions so that the ZBA can concentrate on the variance processes. This is easier for the applicant because they only have to go before one board, and the Planning Board is already familiar with the property. The criterion for approval is established by the conditions and by Major Site Plan Review. Expansion would require an amended site plan. An appeal of a Planning Board decision concerning a conditional use permit would go to the Superior Court. P. Monziona made the point that the need for a conditional use permit only pertains to someone operating a commercial Function Facility; this is not designed to prohibit private citizens from having gatherings on their own property.

Ruben Wentworth asked about his business on Main Street; he periodically has tent sales and open houses with bands and vendor shows. His business and Profile Bank put on vendor shows at the Profile Bank location on Main Street. Do they have to get a conditional use permit to do that? It is their property, but he wants clarification. He questioned whether this was a plan to force some local businesses into site plan reviews. D. Hussey stated that this would not apply; he suggested using the event form in the town hall. T. Roy stated that it is not the intent to affect these businesses. Mr. Wentworth is concerned that this could cause a ripple effect and means they will have to do site reviews in the future. The charm of the town is enhanced by the local businesses, including the tent sales. M. Garrepy again read the proposed amendment; this applies only to businesses designed for the purpose of being a function facility. D. Collier added that the local businesses are not designed to be function facilities; they are retail enterprises that occasionally have an accessory use for gatherings.

Charles Shields asked about having one of his daughters getting married on his property; he can't have a tent or an outdoor band? Board members explained that this ordinance does not apply to the private citizen having a gathering on his own property; this only applies to businesses holding functions for a profit. Mr. Shields then asked what the problem is with people making a little money; he cited personal instances illustrating the cost of maintaining a farm. The farms have been in town for many years; he wants people to be able to do whatever they want to do on their own property. He asked how many of the farms being talked about for function facilities have the space to put a band inside; he is sure it is very limited. C. Balcius explained that it is not just farms that can have function facilities; a person with a two acre lot can have one if they get their approvals. Secondly, there are plenty of places that can put a band inside the barn; there is one now that does it. The board is just looking at noise and traffic; these are issues that are being looked at. The Board is trying to do something that will protect everybody.

Mr. Shields again stated that if they don't have room inside, the facility can't have a band. He also spoke about the Rotary Fishing Derby; do they have to go before the Planning Board every time someone comes up with an idea? C. Balcius responded that it always seems like a good idea until there is a Metal Fest going on next door while you are trying to have a quieter event next door. Mr. Shields stated that the Police Department would take care of the noise problem in a gentle way; he thinks this ordinance is an effort by some people to keep other people from making a living in Alton.

J. Dever explained that at this time, this type of business is not allowed. The point now is to create an opportunity for these businesses to operate legally. Additionally, the Planning Board can make sure that the parking, traffic, noise, etc. are considered so as not to create a nuisance for the neighbors. Currently, if a use is not listed in the Table of Uses, it can not be done. This ordinance will make it possible for people to go ahead and have a business of this type legally. The whole point is to make it possible. Mr. Shields recommended that this proposed amendment not go to the voters; if people want to do it (open a function facility) they should be allowed to do it. The Board members again explained that this is intended to allow these uses; the conversion in the language will allow people to have functions facilities both indoor and outdoors. If a commercial operation wants to have functions all they have to do is come to the Planning Board for a conditional use permit.

Ruben Wentworth asked if a statement can be added to the amendment that all existing businesses are grandfathered. M. Garrepy stated that they can not; J. Dever explained that this is not about retail activity. Mr. Wentworth stated that when he has his tent sales, it is retail. He is trying to get more people into his store. He asked for a letter from the town saying that if he does a tent show at his property, he will not be sanctioned. P. Monziona explained from the floor that this ordinance would apply only to a

facility that is designed for the specific purpose of conducting functions as defined in the ordinance. The primary purpose of the structure is just to do functions. Mr. Wentworth brought up that the wording says “not limited to”; P. Monziona explained that “not limited to” applies to the types of activities. As he understands it, if the only purpose is to have functions as listed, in order to operate you have to go to the Planning Board and have a major site review and get a conditional use permit. If you have a private home, this ordinance does not affect you. If you are a business that now and again has an ancillary use of the business that includes an outdoor tent, that is not the sole function. The Planning Board agreed; T. Roy stated that the intent is exactly as P. Monziona explained. S. Williams agreed; the tent for a special function as an ancillary use does not come under this provision. As polled, all members agreed with that statement. T. Morgan added that use is the key; the primary use of Ruben’s property is retail and the primary use of Profile Bank is banking.

Stacey Smith asked about the asterisk used after “Function Facility – Indoor” that indicates the statement “In accordance with NH RSA 674:21 the Planning Board may grant conditional use permit for a function facility upon review and consideration of the following based upon the proposed location and proximity to other uses.” Also, in the list of the six criteria considered for the conditional use permit, at the end of #2 there is another asterisk which indicates the statement “Limited outdoor activities associated with a function facility such as a wedding ceremony may be permitted by the Planning Board so long as it is determined to not cause excessive noise.” That last part in quotes is not going to be on the ballot, and the asterisk at the end of #2 will be removed.

M. Garrepy read the full text, as it will appear on the ballot. It will read:

To amend Article 200 to add the definition of “Function Facility” and amending Article 400 Section 401 by adding “Function Facility” to the Table of Uses as a use allowed by Conditional Use Permit in accordance with RSA 674:21 in the Rural Residential, Rural and Recreational Services Zones.

Function Facility – A facility designed for the gathering of people for functions including but not limited to weddings, reunions, birthday parties, and other social, religious, political, and/or meeting events. Such facilities may be located entirely within a building or other enclosed structure or in the outside environ such as under a tent on the combination of both.

In the Table of Uses, it will list Function Facility – Indoor, which will be permitted by conditional use permit in the Rural Residential, Rural, and Recreational Service zones. Function Facility – Outdoor, will be in the Residential Commercial, Rural Residential, Rural, and Recreational Service zones by conditional use permit.

In accordance with NH RSA 674:21 the Planning Board may grant a conditional use permit for a function facility upon review and consideration of the following based upon the proposed location and proximity to others.

- 1 Frequency of events
- 2 Mitigation of noise including but not limited to music
- 3 Traffic and parking management plan
- 4 Hours of operation
- 5 Impact on abutting properties
- 6 Subject to Major Site Plan Review

Richard Locke of 17 Prospect Mountain Road came forward; he thought at the last meeting the legal petition that was brought forward was accepted; tonight he finds out that one of the changes was not posted so it doesn’t count. Also, the rest of the Board spontaneously decided that they did not mean what they said last time; he asked if the members were not paying attention, or where they just kidding around. S. Williams answered that because one of the people who signed the petition probably should not have sat on the Board at that meeting that amendment is not moving forward. Mr. Locke asked if that name could be struck, as the signer has agreed to, does that make the petition and all the other signatures valid. S. Williams answered that it would not make a difference at this point. C. Balcius added that this is the Board’s opinion, not a legal opinion; M. Garrepy responded that the Board’s opinion is the only one that really matters, and the Board decided to go back to original language as is their prerogative. C. Balcius stated that the language has not been noticed twice for public hearing with the original language; M. Garrepy stated that it has been noticed twice with the original language. C. Balcius responded that it was only noticed with the original language for the first meeting; the changed language was noticed for the second meeting. M. Garrepy explained that the original notice covered both meetings; what did not get noticed additionally was the section concerning allowed zones. The language that was in the original notice was dated for both meetings. The changes are not usually so far removed from the original that there is a need for re-noticing; at the first public hearing there were changes and additions that caused major changes. The new amendment would have had its first public hearing tonight. The discussion of other zones for this amendment would

have had to go into the paper as re-notification for the second public hearing. Legally, the Board cannot go forward without the notification concerning the zones.

A short break was taken for a video tape change.

T. Roy requested further input from the public concerning Amendment 3. There was none; public input was closed.

M. Garrepy added the statement that Indoor Function Facilities would be allowed by right in the Residential Commercial zone.

**S. Williams made a motion to move amendment #3 to the ballot. D. Hussey seconded the motion which passed with five votes in favor and one opposed (C. Balcius).**

Discussion move on to Amendment #10; this amendment was continued to add aircraft takeoffs and landings in the Residential, Lakeshore Residential, Residential Commercial, and Recreational Service zones. Those additions were not noticed, so it will revert back to aircraft takeoffs and landings on private land as provided by NH RSA 674:16V in the Rural Residential and Rural zones only, by Special Exception. Because this is not addressed by an ordinance at all at this time, aircraft takeoffs and landings would be allowed anywhere.

**W. Curtin made a motion to strike Amendment #10 from consideration. S. Williams seconded the motion which passed with five votes in favor and one opposed.**

Consideration moved on to Amendment #11; the only substantive change was concerning Section B, Sub-Section (c); this section will revert back to the original text. All other changes were noticed for 12/20/2010.

T. Roy opened public input for this Amendment.

Roger Sample asked for an explanation of this amendment; he finds the language confusing; he also asked about the part that is not going forward. M. Garrepy read the proposed amendment into the record; the original proposed language reads "To amend Article 300, Section 320 – Non-conforming Uses, subsection A,3 by eliminating the ability to obtain a Special Exception to change one nonconforming use to another nonconforming use; to eliminate subsection A,5 relative to repairing nonconforming structures due to similar language found in subsection B-3; to amend subsection B-2 by adding subsection (d) to not allow decks, porches, or patios located within setbacks to be converted to living space; and to amend subsection B-3 by adding a definition of "repair." The language as originally noted in subsection B-2 (c) is going to remain the same.

Mr. Sample felt that this amendment was aimed directly at the Conference Center. Members disagreed; this will apply to all buildings. Currently the ordinance says that if you have a nonconforming use on a lot and you want to introduce a new nonconforming use, you have to qualify for a variance, which includes proving hardship. M. Garrepy explained that the aim is to slowly phase all the grandfathered nonconforming uses out of the zones.

Mr. Sample addressed B-2 (d) which states that "A deck, porch or patio shall not be converted to living space if same is located partially or wholly within any setback area." J. Dever explained that if it meets all setbacks, it's all set. He explained that if an existing deck is 12 feet into the setback it stays a deck; if it is not in the setback you can convert it to living space. This applies only to properties that are nonconforming due to setbacks, not to any other nonconformity.

A discussion ensued with Mr. Sample arguing that a structure can not be made "more nonconforming"; Board members explained that adding more square footage adds to the nonconformity. This proposed amendment applies only to nonconformity in regard to setbacks.

There was no further public input concerning proposed Amendment #11.

**W. Curtin made a motion to forward Amendment #11 to the ballot; D. Collier seconded the motion which passed with all votes in favor and none opposed.**

#### **CITIZEN'S PETITION – PROPOSED ZONING AMENDMENT**

A citizen's petition has been submitted to the Board; this is the public hearing for that petition. The function of the Board is to put a notation on the ballot stating whether the Board approves or disapproves of the petition amendment. Additionally, a

courtesy notice was done to the affected property owners; the petitioners are not required to provide such notification. Since the notice has gone out, the Planning Department has received numerous letters; there is also a protest petition on file with the Board of Selectmen. They represent a number equal to 80% of the landowners affected by the petition amendment.

The petition was read into the record:

“The undersigned legal voters of the Town of Alton request that the zoning ordinance of the town be amended to modify the zones and descriptions as follows: Change from Rural Zone to Lakeshore Zone the following areas: all lands bounded on the northerly, easterly, and southerly by Roberts Cove Road and bounded westerly by NH Route 28.”

Attorney Steve Nix and the requesting petitioner in attendance, Terry Hussey came forward. Attorney Nix represents Neil and Terry Hussey as well as Frank and Mary Carotti, petitioners.

Attorney Nix explained the history behind the petition; it is not personal, but a land use issue where there appears to be conflict. On the west side of Roberts Cove Road, the zoning is Lakeshore Residential. There are a number of very small lots there; he used a diagram to show the area in question. On the east side of the road, which is zoned Rural, there are also a number of small lots as well as some larger lots. The issue is that brought this to light is that one of the owners in the Rural zone started a poultry business which is allowed in the rural zone, allows several roosters who create a nuisance. If one looks at the uses in the rural zone and in the Lakeshore Residential zone, they don't match up; in this area the rural zone is in close proximity to a single family residential zone.

The petitioners brought this forward for a couple of reasons; one is the conflicting land uses that are going on in the area. There have been attempts at resolution, but at this point the issues have not been resolved. The other issue is that there is a large area of rural zone that is incongruent with the surrounding Lakeshore zone. On the other side of the lake, Lakeshore Residential stretches to Route 11. There is no transition zone; the rural zone allows everything on the list, and the Lakeshore Residential zone is simply residential.

The protest petition forces a 2/3 vote on the petition amendment. Attorney Nix mentioned that while notices were sent out to the affected owners in the Rural Zone, corresponding notices were not sent to the owners in the Lakeshore Residential zone. His clients would like for the Board to not take a vote this evening; there was discussion concerning when the last date would be to vote on this. The last date to vote on this would be January 18, 2011.

T. Roy explained that the Planning Board has been looking at different zoning options for the town; one of the items they had looked at and discussed is how wide the Lakeshore Residential Zone should be. The Board is actually looking to go in the other direction from what has been proposed. It doesn't make sense to do what the Board is trying to undo; also, the poultry business that is there will continue to be there. Attorney Nix brought up that the focus is toward land use; the bigger issue is that there is no transition between the Lakeshore and Rural zones. T. Roy explained that a lot of the zones are split by roads because there was an effort to not bisect lots into different zones. There was further discussion of the overall effort to look at the zoning of the entire town. Attorney Nix asked that the Board not just look at what is inside the lines but also to look at the affect on the abutting properties; what happens in one zone impact the others. S. Williams pointed out that this change could lead to far greater density in this area. D. Hussey explained the process of rezoning; this is totally out of line to try to do it this way, and he does not think the town is ready for it right now.

Terry Hussey has been coming to this area for 50 years; she and her husband bought their property in 1983 and came up summers and built their home; they drove from Derry every day for a year to build their dream home. They have never had a problem with the neighbors; she regrets that they have to impact so many people just because of a rooster problem. T. Roy pointed out that the rooster problem is not going to go away because they are grandfathered. Ryan Hussey stated that he sees a future for himself in Alton; future additional roosters are what they are trying to eliminate. T. Roy explained that the zoning is being looked at; this may or may not be one of the areas changed. The townspeople will decide this issue by a vote. Attorney Nix stated for the record that his clients do not agree that the roosters there are grandfathered.

Terry Hussey continued; they have tried to talk to the neighbors but have had no resolution. They had hoped that common sense would prevail, but that has not happened.

Attorney Nix read a letter from Mr. Hussey. They have been trying to resolve this issue with the neighbors and the town for over four years but are consistently told that this area is rural and therefore the roosters are allowed. There is a noise ordinance clause that disallows crowing roosters from being covered by the ordinance. He also pointed out that there are some areas on this side of

the lake where the Lakeshore Residential zone extends as much as a mile in some areas, but the rural zone practically abuts the lake where the problem exists. Additionally, there is an area of Rural Residential zone in many areas. Many of the lots are small and were intended for summer cottage use along the lake. They are not large parcels as could be expected if an agricultural pursuit were the goal. Obviously there is something wrong with the zoning if a person is allowed to raise chickens on a small lot surrounded by summer cottages. Because of this zoning issue and the clause in the noise ordinance, there is a neighborhood where there is no longer a need for common sense and respect. He requested that the zoning be changed along Roberts Cove Road in an effort to return the peace and harmony to the neighborhood.

Attorney Nix thanked the Board for their time and again requested that the Board not take action tonight. He also suggested that during a future zoning review, "boutique" farms need to be looked at; this is an issue everywhere. Terry Hussey handed in an article from Cape Elizabeth, ME; they are dealing with the same issue. Attorney Nix also turned in letters from the Carotti's and the Ashley's.

Tim Morgan commented that the description of the area is inaccurate; the boundaries are described with the roads on the wrong sides of the parcel. The Selectmen have accepted the petition; Attorney Nix added that a citizen's petition does not have to be 100% accurate as long as the intent is clear.

T. Roy polled the Board; none of the members present support this petition. With that in mind, members of the audience were invited to speak.

Margaret Listrom owns 10 homes on Roberts Cove Road. Her grandfather bought the property in 1910. People would come up here to get out of the city and to enjoy the fresh air and the lake. She also voiced concern that property taxes would go up if this petition article passes.

Attorney Art Hoover spoke on behalf of Amanda Eason, the owner of the chickens. He corrected the statement that this is a poultry business; Mrs. Eason's daughter brought them home from elementary school when they were chicks.

Sylvia Leggett owns a 56.65 acre parcel in the area that would be affected by the proposed petition amendment. She spoke about the possibility that if the proposed petition amendment passes, it could increase density in the area by 300%.

Brenda Boudreau asked if the petition would go on the ballot no matter what the Planning Board decides. It was explained that the petition would go forward either way, but that there would be a statement on the ballot stating whether the Planning Board recommends or does not recommend the petition.

**S. Williams made a motion to not support the zoning amendment by petition. D. Hussey seconded the motion and the Board voted unanimously to not support the proposed petition amendment.**

## **VI. OTHER BUSINESS**

### **A. Old Business**

There was none.

### **B. New Business: Discuss Memo from Town Planner Requiring Preliminary Review of Major Subdivisions and Site Plans**

The Board and staff members discussed the concept of requiring preliminary review of Major Subdivision and Site Plans; the discussion centered around the similarities between preliminary review and conceptual or design review. In reality they are very much the same. M. Garrepy made the point that this would make the whole process clearer and more transparent.

**W. Curtin made a motion to require preliminary review of major subdivisions and site plans with notification to abutters. D. Hussey seconded the motion which passed with 6 votes in favor and none opposed.**

### **C. Approval of Minutes**

**August 10, 2010** – On page 2 of 8, the first line of the first full paragraph, the word "wit" should be "with"

On page 4 of 8, the first line of the fourth full paragraph, the word “what” should be “want”

On page 5 of 8, the fourth line from the top of the page, the word “my” should be “may” and in the sixth line of the third full paragraph, the word “whist” should be “what”

On page 6 of 8, all references to Class IV roads should be Class VI roads

**W. Curtin made a motion to approve the minutes of August 10, 2010 as amended. D. Collier seconded the motion which passed with five in favor and one abstention (D. Hussey).**

**December 20, 2010 –**

**W. Curtin made a motion to approve the minutes of December 20, 2010 as presented. S. Williams seconded the motion which passed with three votes in favor and two abstaining (C. Balcus and D. Collier).**

**December 21, 2010 –** On page 4 of 19, the bottom line of the page, the word “showed” should be “shown”  
On page 5 of 19, the third line from the bottom of the second full paragraph, the word “cam” should be “can”  
On page 6 of 19, the motion made by S. Williams was to conditionally grant a waiver for 7.4.5.1, not for 7.4.5.2  
On page 14 of 19, the third line of the fifth full paragraph, the first word of the line reads “his” but should be “him”  
On page 19 of 19, the workshop noted to be scheduled for December 11, 2011 should have been January 11, 2011.

**D. Correspondence**

There was none.

**E. Any other business that may come before the Board**

There was discussion of whether to grant waivers up front or wait until after an application is accepted. The decision was made to grant waivers up front and to add a note on the waiver list stating that waivers would be granted up front but could be cancelled by the Planning Board at any point up to plan approval.

There was a short discussion concerning surveyors or engineers doing site plans.

**VIII. ADJOURNMENT**

**D. Hussey made a motion to adjourn. S. Williams seconded the motion which passed with all in favor.**

The public hearing adjourned at 8:55 p.m.

Respectfully submitted,

Mary L. Tetreau  
Recorder, Workshop