

**TOWN OF ALTON PLANNING BOARD
MINUTES 2019
JANUARY 15, 2019**

APPROVED

Members Present:

Roger Sample, Chairman
Scott Williams, Vice-Chairman
Russ Wilder, Clerk
Virgil MacDonald, Selectmen's Rep.
Bob Regan, Alternate

Others Present:

Nic Strong, Town Planner
Phil Wittmann, Zoning Amendment Committee (ZAC)

CALL TO ORDER

Roger Sample called the meeting to order at 6:00 p.m.

The Chairman appointed Bob Regan as a full voting member.

APPROVAL OF AGENDA

Scott Williams asked if there were any changes to the agenda other than moving the Conceptual Consultation, Case #P19-01, to be heard first. Nic Strong stated that under Correspondence for the Board's information, 5. a. & b. were added after the agenda was originally posted.

**Scott Williams MOVED to accept the January 15, 2019, agenda, as amended.
Russ Wilder seconded the motion, and it PASSED unanimously.**

4. Conceptual Consultation

Case # P19-01 Thomas W. Varney, P.E., of Varney Engineering, LLC, Agent for Keith Babb of Green Oak Realty, Owner	Map 5 Lot 72	Conceptual Consultation Rural (RU) Zone Suncook Valley Road
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The Chairman read the case into the record.

Present was Keith Babb, owner.

Keith Babb came to the table. He informed the Board that Thomas W. Varney, P.E., sent a letter to both him and Nic Strong informing them that he was no longer going to represent him; therefore, he asked for a continuance so he had the time to procure a new engineer and get them up to speed. Scott Williams asked how much time he needed. Keith Babb thought at least two to three months. Russ Wilder asked which engineering firm he was looking into. Keith Babb stated he was looking at Eckman Engineering, LLC, out of Portsmouth, NH. They might not be the firm to work on the project because they had not gotten back to him as of tonight's meeting.

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**Scott Williams MOVED to continue Case #P19-01 until the regularly scheduled meeting on April 16, 2019.
Virgil MacDonald seconded the motion.**

DISCUSSION:

Russ Wilder pointed out that there was an existing conditionally approved Excavation Permit that Keith Babb was working on with Thomas W. Varney, P.E. Keith Babb stated this conceptual was part of the presentation that was supposed to take place tonight. Russ Wilder noted that the new firm would also take on the current Excavation Application that was already in the works. Russ Wilder pointed out that there were two parts to this project, one was the expansion, and the other was operating. Keith Babb stated that they coincided with each other, because if the expansion was going to be approved, some of those items on the permit now, would not have to be done under the new expansion. Russ Wilder noted that the Excavation Application for the current operations and the expansion would be combined into one. Keith Babb stated, correct, that Thomas W. Varney, P.E., was working on both of them.

Nic Strong stated that the current operation was not permitted yet because revised plans and some of the conditions had not been submitted; therefore, there was no actual permit in place. Roger Sample asked what the permit was for. Nic Strong stated it was a permit for the existing excavation. Russ Wilder stated that Keith Babb was in the process of applying for the permit for the existing operation. Keith Babb thought that the application was deemed complete and accepted. Nic Strong stated, yes, but it was a conditional approval that included a list of conditions, and some of those Conditions Precedent still had not been done. She stated that she had been emailing both Keith Babb and Thomas W. Varney, P.E., for months about these items; therefore, since those items had not been submitted, the plans had not been signed and there was no permit. Keith Babb asked what those outstanding conditions were. Nic Strong stated he still needed to submit the letters from the abutters, the safety information that he stated he would submit from other sources instead of submitting the required safety plan for the permit, and a set of revised plans. Keith Babb stated that submitting the safety plan was easy because he had some information available from the Federal Government. Keith Babb stated that Dan Steele had already written a letter and he did not understand why the Board did not receive it, and Marty Conner had been contacted, but he has not heard back from him. Roger Sample did not think that any excavation was ongoing due to the season, and he most likely was just operating as a contractor's yard; Keith Babb agreed.

Roger Sample asked the Board for a vote on the motion, and it PASSED unanimously.

1. Public Hearing pursuant to RSA 675:3 on proposed 2019 Zoning Ordinance Amendments

Roger Sample addressed the petition article. Nic Strong stated that the Petition was submitted on time, the signatures were checked, and then it went to Town Counsel to approve the language because it was not written in a way that she was familiar with from years of seeing petitions for Zoning Ordinance amendments. She noted that she sent a letter to Loring Carr and was informed by him that it was Brendan Twomey who wrote the petition. She then sent a letter to him, but she had not heard back from him. She

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pointed out that the petition was written to rescind a previous warrant article and there was no provision in the law to vote to rescind a prior action at a Town Meeting. The proper wording should have been to reword the zoning ordinance section to what they wanted it to say. Another issue was that it asked only to rescind the first part of the proposed amendment from last year and then it described what that amendment did; therefore, it only mentioned the frontage to go from 150' to 75', and missed the part where the frontage on the other side of the street went from 30' to 50'. She informed the Board that if the petition was approved, the wording of it cast some doubt on the current section of the zoning ordinance and how that should be interpreted going forward. Virgil MacDonald pointed out that the Board could not change any of the wording on the petition. Nic Strong agreed. RSA 675:4 required that the Planning Board approve or disapprove the language in the petition, and then that wording went onto the ballot along with what the Board decided. Virgil MacDonald questioned if the Board voted to approve the petition, and the townspeople voted it in, would it just be the one side of the road that changed and the other side would stay the same. Nic Strong stated that the petition language left that answer cloudy because the petition did not address what was done completely by last year's zoning ordinance. She pointed out that Jim Sessler, Esq., thought it would call into question that section of the ordinance. If someone came in with a permit, John Dever, III, Code Enforcement Officer, Jim Sessler, Esq., Town Counsel, and the applicant would have to sit down and figure out how that ordinance would be interpreted. Virgil MacDonald thought that if the Board passed it, they would find out the answer to that question. Scott Williams asked if the time had passed to submit warrant articles; Nic Strong stated, yes. Nic Strong stated since it was a zoning article, the deadline was December 12, 2018. Russ Wilder pointed out that the petition would go onto the warrant anyways, and the issue was whether the Board would support it or not, even though it was not worded properly.

A woman from the audience asked the Board if there could be an extension so the petition could be reworded. Scott Williams stated that the State laws were very rigid, so that could not happen. She pointed out that the Board's issue was if the writer of the petition was only concerned with the 150' to 75' frontage, or both sides of the street. She noted that she could give them the answer. Scott Williams stated that it was not the fact that the Board needed an answer; the point was that it needed to be in writing as part of the petitioned article. A man from the audience pointed out that the Board could still have public input; Scott Williams stated, yes.

Loring Carr came to the table. He stated that he came before the Board last year and spoke against the changes proposed by the article. At that time, he informed the Board about the ZAC Committee and how they only spent at the maximum 7 minutes and 8 seconds in one meeting and 6 minutes and 43 seconds at a second meeting, which was too short of a time to spend on making a decision. The petition was to reinstate the former frontage required in the Lakeshore Residential District. Last year this amendment included a rationale for the voters to address inconsistencies between the lake touching and non-touching lots. He thought that by addressing the issue about the petition only including one section, if the Board would look at the rationale that was included in the amendment, it only stated: "This proposed amendment would address an inconsistency between the required frontage in the Lakeshore Residential District for a mainland lakefront lot and a non-lakefront lot and would increase the frontage for mainland lakefront lots to 50'." He noted that the rationale did not include what seems to be questioned in the petition. He thought that if the Board was now saying the petition did not include the other half of the ordinance, when the rationale to the voters only included half of it; that was an issue. He thought that the 75' to 50' ratio was not equal. He explained a scenario that to tell a woman that the inconsistency with her pay and a male coworker's pay by dropping his from \$150 an hour to \$75 an hour, and then increase

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the woman's pay from \$30 an hour to \$50 an hour did not equalize the matter. He thought that the rationale did not equalize the problem. At the November 20, 2018, Planning Board meeting, a couple came before the Board for a pre subdivision discussion. The couple told the Board how they hoped to subdivide a current 150' lot, and the Board's input was, 1. Their lot would not meet the 3:1 ratio, 75' to 125' setback, and they would need a waiver; 2., It would not meet the 30,000 s.f. minimum State required footage for the septic without a waiver for the 3:1 ratio; 3. It would not meet the State's 75' well radius without a waiver; and 4. The Board did not discuss the other half of the lot; they only discussed the half of the lot that was being built on, which would also require waivers. He pointed out that lot required numerous waivers. He thought that the lots with a protected well radius would be compromised, and the setback ratio would be disregarded, along with a possible septic shortfall. He pointed out that higher population densities created more burdens upon the environment. This Town continuously put land into conservation easements. He shared that he had seen the summer algae grow up to 6' off the shore by September as a kid, but now it was up to 15-20' by June, 40 years later, and now the Board wanted more density around the lake; he thought it was a mistake.....it would increase subdivision.....a 300' subdivision would go from two (2) homes.....150' apart to four (4) 75' lots with homes that distance apart, and probably 80 or more waivers. All that burden would go on the lake. He wanted to address the November 20, 2018, Planning Board video again that he referred to earlier. As the Board discussed the possible petition coming before them, the Board would have to vote to recommend or not recommend the amendments to the voters and in that video, possibly the longest, well respected and probably knowledgeable member stated, "I certainly would stand to support what we did last year", referring to the vote....coming here tonight. This happened at 7 hours 43 minutes and 10-13 seconds if the Board wanted to check that. Before tonight's public input, a member told the other members how he would vote. Any petitioned article climbed an uphill battle as it originated from the grass roots without government support and as what was seen tonight, without legal representation. If the ability to word this correctly was available to Mr. Carr and Mr. Twomey, they would have done that. Now this petition had to overcome a direct and perhaps a deliberate subconscious move to instill others who were biased for this vote tonight. He asked the Board to evaluate the shortcomings of last year's changes and support the petition article. As for the wording, Loring Carr thought that if there were 500 people or an overwhelming majority that voted to rescind the petition, then the Board could go back and evaluate and address the inconsistency in a manner more equitable and would not require so many waivers. He thought that this was a mistake and he did not understand how one district could have one set of rules in the same district for one property and different for the others just because one set of properties touched the lake, they had a certain set of standards that had to be met versus properties that did not touch the lake. He did not understand how that was any different from his zoning district; he needed 200' of frontage. He did not think it was fair to say that he lived on the sunny side of the street and he had to have 200' and the person who lived on the shady side of the street only had to have 100'. He did not know why there were two (2) sets of rules and had no idea how it came about in the first place. He asked if the districts had to have the same requirements throughout the whole district. Scott Williams stated that it had not been that way. Virgil MacDonald stated it had never been that way. Loring Carr again thought that was a problem and he did not think that the amendment that passed last year addressed the issue correctly. To require waivers for the well, and the 3:1 ratio was not fair. If he wanted to subdivide his property, he had to meet the 200' frontage and he would have to meet the 3:1 ratio. Everyone else in Town was expected to meet the 3:1 ratio, but for some reason a different set of rules was allowed. He did not think that enough time was spent on discussing the changes and he did not think that the math was even done correctly. You could not have 75' and make the footage for the septic. He asked the Board to vote to support the petition and realize that the ordinance had to go back to the drawing board to address the inconsistencies.

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John Dever, III, came to the table. He stated that he was the Code Official for the Town of Alton, he was also the Zoning Administrator, and a member of the Zoning Amendment Committee (ZAC). He pointed out that a comment was made that this was hastily conceived and there was not real time spent on it, which was untrue. This amendment was brought about by several situations when the Committee looked at the road frontage in the Lakeshore Residential Zone. The Committee compared the frontage requirements to other Residential zones such as the Residential/Commercial and Residential Zones; those zones had a minimum of 75' frontage for any lot that had a septic system. The zones also had a minimum of a 30,000-s.f. lot, which was the same minimum requirement in the Lakeshore Residential Zone currently, and that did not change with this amendment; therefore, the lot size for the Lakeshore Residential Zone had not changed. In addition to trying to address the inequity between one side of the road to the other, the Committee was also trying to address the inequity between the Lakeshore Residential Zone and the other Residential Zones that had the same size lot requirement. John Dever, III, stated that was the logic behind what the Committee came up with. He stated that he was the one that did the math. He brought up the comment that Mr. Carr had about numerous waivers being requested. The situation that he discussed was one Minor Subdivision; there was a minor subdivision done directly next door to where the other subdivision was being proposed that he thought did not require any waivers because both lots ended up at about 3 acres each. When a subdivision came in, the Board knew how many waivers were being requested, so he thought Mr. Carr's comment was subjective. He shared that the frontages were put in place back in 1970 when the ordinance was adopted and had been that way ever since. Scott Williams stated that when the Lakeshore Residential Zone was first delineated, the frontage requirement only required access, but later on in the 1980's that was when a frontage requirement was put in place.

John Dever, III, stated that he was the last person in this Town who wanted to adversely affect the lake. He had spent a great deal of time and effort since he became an employee to find ways to improve things. Some of the things that Mr. Carr may not be aware of was that there were parts of the Lakeshore Residential Zone that were over a mile and a half from the lake; therefore, all those lots had to have 150' of frontage. John Dever, III, stated that ZAC did not propose a change in the lot size from 30,000 s.f. down to 15,000 s.f.; that was staying the same. Many of the lots in this zone were out of the Shoreland Protection Zone, but they still needed to be looked at for development by virtue of the Stormwater Management section of the Zoning Ordinance. He felt that the petition, as presented, was not viable for several reasons. If a petition was asking for something to be rescinded, then the ordinance would have to go back to 30' of frontage on the lakeside and 150' on the non-water side, because that was what was asked, to rescind the warrant article that had passed. He stated that he did not just pull numbers out of the air, there was a lot of thought and effort that went into his proposal and the discussions that took place with ZAC included that information; therefore, since the information was presented accurately, it only took the Board minutes and seconds to make their decision. Russ Wilder wanted to know in other parts of town, how much frontage was needed on a town road to have a lot. John Dever, III, stated that in the Residential and Residential/Commercial zone, a lot needed 75'. Russ Wilder noted that these were not zones located near the lake; John Dever, III, stated, yes. Russ Wilder noted that what the proposal did was that 75' of frontage on the non-lakeside of a road would be the same as other zones in town to have a conforming lot. Scott Williams asked what the Residential Rural frontage was. John Dever, III, thought it was 150', but was not exactly sure. Roger Sample thought that the point of this ordinance was for the people that had lots on both sides of the road and could not do anything with the non-lakeside lot because they did not have enough frontage. John Dever, III, stated that was a different issue. Russ Wilder thought that making the frontage consistent with other lots in other zones potentially enabled more density or

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development near the lake. Scott Williams stated that every new lot created would require 4,000 s.f. of receiving area according to the State, plus the lot loading was also designated on the soils that existed, elevation to seasonal high water table had a formula that would give how many gallons a day that a lot would support. If the lot did not support it, then a leach field could not be put on a lot. John Dever, III, did not think the Board should recommend this amendment. He addressed the comment that Mr. Carr made that he did not have the opportunity to amend the petition, but everyone had the opportunity to ask for assistance or to find someone who was knowledgeable. Scott Williams thought that he had mentioned that the Town Administrator would assist in drafting a petition article, because that was what they did. He wanted to know if the Board had any advice from Jim Sessler, Esq., as to what the Board should or should not do with the petition. Nic Strong was looking for the piece of correspondence; in the meantime, Al Stevens came to the table.

Al Stevens asked if the warrant article that was passed last year coincided or did it have any conflicts with the Master Plan of the Town about density. Scott Williams did not think so. John Dever, III, stated that the Master Plan was part of what the ZAC Committee looked as to not go against something that the document outlined.

Nic Strong read the email, dated December 11, 2018, from Jim Sessler, Esq., "As for the petitioned warrant article, it was miswritten. There was no provision in the law for a vote of a prior town meeting/election to be rescinded. The proper wording should be to amend the current zoning ordinance. Having said that, the Selectmen are obligated to present all petitioned articles to the vote, even if they would be unenforceable, so it would go to the voters regardless. I trust that the Planning Board will not recommend."

Bob Regan thought that the key issue that John Dever, III, had was that the lot size requirements stayed the same, and Mr. Carr's concern that density around the lake would get tighter and tighter, was trumped by the lot size staying the same. He thought it would keep the separation in between houses reasonable and it would make the right accommodation for a septic system and all the other requirements.

Susan Stevens came to the table. She stated that she had a lot of land that was subdivided behind her property and she was present at the meeting in April. She thought that the Board was going on as if every lot was rectangular or square, but they were not, especially in the Lakeshore Residential zone; many of the lots were pie shaped. She stated that was the reason why there were two pieces of property going in near her property, instead of one, because with the old zoning it could not have been subdivided. When she looked at the minutes from 2018 and 2017, there was a lot of talk from the Board about Lakeshore Residential rezoning and she wondered why. She wanted to know why the Board was messing with that zone because it was the most valuable land in Town. She stated her taxes went up by 25% last year because she lived across the street from the lake and now her value just went down; she wanted to know if her taxes were going to go down. She thought that now the Board ended up putting her in the same group as residents that owned lots two (2) miles away on the other side of town. She asked if the Board thought that those lots were worth the same. Roger Sample thought that her lot would be worth more. She asked how much more. Roger Sample stated he was not an Assessor. Susan Stevens stated that he was a builder and owned real estate; she thought he had an idea. She wanted to know what criteria ZAC used in order to make the changes, like impact studies; she saw no discussion. She stated that John Dever, III, stated that he and the Board talked about it for quite a while, but there was nothing in the minutes where it was discussed because she read them all. She asked the Board to share the information the information

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that was discussed before making their decision. Roger Sample stated he would have to back and read the minutes. She wanted to know who brought this amendment to the Board to have it voted on. Roger Sample stated that the amendments came from ZAC. She wanted to know why they all of a sudden got this idea in their heads. Scott Williams stated that the basis of the ZAC Committee comprised of issues with ordinances that came from the Planning and Zoning office throughout the year that they found problematic or found that there were numerous cases going to the ZBA for relief. Susan Stevens stated that neither ZAC nor the Board considered impact and she saw no criteria that was put in place. Scott Williams stated that the lot size did not change, so he thought that did not really trigger a huge problem. She stated that the road frontage changed and that was everything. She stated that there was 35 acres for sale up the street. She asked the Board what that just did to the land; it meant that a lot more people could be squeezed onto that land. Scott Williams stated that they would have to fit into the septic requirements of the lot. She stated that they could just get a waiver. Scott Williams stated that was a State requirement and they could not get a State waiver. She thought that they probably would and that the Board would just change the ordinance. Scott Williams did not think that was an appropriate comment. She stated that she saw the Board change the requirement on an empty lot that a house had to be built, and now huge garages were allowed to be built in the Lakeshore Residential zone. She did not think that went before the townspeople for a vote on the ballot. John Dever, III, stated that change did go on the ballot. He noted that the Board could not make changes in the Zoning Ordinance without it going to the public first; the Board did not just make random changes. She wanted to know who brought that to the ZAC Committee. Scott Williams stated that she should check the minutes. John Dever, III, stated that change came from the ZAC Committee. She stated that it actually came from John Dever, III. She stated it make it easier for people to put up huge garages now, which was going to be built next door to her where the Board allowed a subdivision to take place. She stated that the Board was wrecking the Town and thought she cared more about it than the Board did.

Loring Carr came to the table. He stated that he took the 7 minutes and 8 seconds directly from the minutes. He stated there was no recording for that meeting, but the 9/13/17 minutes had seven and a half pages and there was only a half of a page discussion on that article at that time, and on 9/26/17 there were 11 items, so if the total time was divided, it would come to 6 minutes and 49 seconds for 17 pages and there was only three quarters of a page. Virgil MacDonald stated that, as Loring Carr should well know, that the Board received their paperwork before the meeting and they had time to look it over and come to their own conclusions. Loring Carr still thought that was a very short time to make a decision. He agreed with the 30,000 s.f., but in order to get to 30,000 s.f., the 3:1 ratio would have to be given up. He thought that the lots would now be comparable to lanes at a bowling alley. If you took the 75' frontage and the 3:1 ratio, it would be 225', there would be 52-56% of what was needed for the septic system; therefore, those lots would have to be the most craziest lines....the lot would not end up with the 3:1 ratio no matter what....a waiver would have to be requested for the 3:1 ratio unless a lot was rectangular....it would be a nightmare and how would the well be situated.....there had to be 150' to be within the State specs. The State gave waivers because they realized the lot was created before, but after 1989, they wanted 150' of frontage as a requirement. He stated that the Board referred to the 30'.....it was ok because there was going to be the same s.f.he asked then what was wrong with the 30'.....why change it.... Bob Regan thought that one of the assumptions that Loring Carr had was that it was a straight line across the lake. Bob Regan stated that if someone was looking at a lot from the bay, and the bay was shaped like that and there was 75', at 90 degrees from the lake, there would be a pretty big lot. Loring Carr stated that the frontage was on the road. He stated that the Board put in regulations that were going to require numerous waivers, and to say it would not happen all the time was not true; it would probably happen

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99% of the time. Meanwhile, as he stated earlier, there would be a 300' subdivision that would have four houses on it now instead of two. He stated a quote, "Art imitates life". He told the Board to think about "On Golden Pond". He mentioned he was a native and had seen the explosion of houses around the lake. He noted that on "On Golden Pond", they wanted to show a nice idyllic setting for the movie. He asked if they showed a picture of a cabin with houses 75' between each other, or did they show a nice cabin with some trees around it and you could hear the loons. He stated again that he had seen the expansion that had happened around the lake and now the Board was asking for more density. He stated that the Board asked for conservation land so the Town could keep their open spaces; meanwhile, the ordinance was doubling what was taking place now. He asked the Board to think of it that way because as far as he could tell, the math was not done properly. He asked why the Town had a Conservation Commission if the Board was going to allow ordinances to be passed that would increase density around the lake.

Roger Sample asked if there was any more public input. No more public input. Roger Sample closed public input.

Russ Wilder appreciated the consistency part, but he thought that changing the frontage from 150' to 75' would increase the amount of building and thought that people would ask for waivers and probably get them. He spoke on the stance of conservation because he was on the Commission that the 150' might have been in there originally to deter density. He stated that his Uncle Al was involved in getting the Lakeshore Residential Zone set up. He shared that the Commission had a big old plan down in the basement of the Town Hall of a subdivision in the Woodlands that would have had 150 camps with one little access to the lake. Russ Wilder would like to see the ordinance rescinded, but if the warrant article was rescinded, he was not sure if the old ordinance would come into play because it was replaced by the new ordinance. Virgil MacDonald thought that was a gray area. Russ Wilder noted that the intention of the petition was to put the ordinance back the way it was originally, but it did not quite state that. He stated that this petition would go to the townspeople to vote on, but would leave a gray area. He did not think it was the right thing to allow the density to increase to begin with.

Virgil MacDonald MOVED that the Board approve the petitioned article.

Russ Wilder seconded the motion. Russ Wilder and Virgil MacDonald voted: Aye. Bob Regan, Scott Williams, and Roger Sample voted: Nay. The motion was DEFEATED.

PLANNING BOARD PROPOSED AMENDMENT #3:

Amend Article 300, General Provisions, Section 359 Stormwater Management, Sub-Section C., Applicability, to require the use of stormwater management measures for construction or development of any size that is determined to be allowing runoff to leave the site.

RATIONALE:

This proposed amendment would require stormwater management measures to be provided for construction or lot development of any size that allows runoff to leave the subject property.

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DISCUSSION:

Scott Williams pointed out that at the previous meeting, the Board decided to add under Applicability, “of any size”, and struck out, “and area is 1,000 s.f., or”. He also pointed out that further in the ordinance, “area disturbed is 1,000 feet or greater”, was struck out. He clarified that any size lot would be subject to stormwater protection. Roger Sample agreed that those items were discussed at the previous meeting. Russ Wilder noted that the Board had a lengthy discussion on the changes and the ordinance was greatly improved. Scott Williams asked John Dever, III, if he was satisfied with the clarification; he stated, yes.

Roger Sample opened up public input.

A member from the audience asked the Board to read the amendment. Scott Williams read the following: “Amend Article 300, General Provisions, Section 359 Stormwater Management, Sub-Section C., Applicability, to require the use of stormwater management measures for construction or development of any size that is determined to be allowing runoff to leave the site, as follows:

C. Applicability

The requirements of this article shall apply for building **construction or lot** development on any tract of land **of any size** where:

1. slope of land before or after development is 15% or greater ~~and area disturbed is 1000 square feet or greater~~; or
2. slope of land is less than 15%, ~~area disturbed is 1000 square feet or greater~~ and disturbed area is 20 feet or less from the top of a slope of 15% or greater.

All slopes are measured over a horizontal run of 50 feet.

No construction or lot development of any size is permitted to divert or direct additional runoff from the subject property onto any other property. The measures described in this ordinance for stormwater management shall be utilized as needed to collect and treat stormwater runoff. Any construction or lot development of any size that is determined by the Code Enforcement Officer to be allowing runoff to leave the subject property shall be required to follow the application procedures contained herein and to submit such plans and install such permanent stormwater management measures as are necessary.

The following are exempt from the requirements of this article as they are otherwise regulated:

1. Developments subject to Site Plan Review application process;
2. Developments subject to Subdivision application process;
3. Timber harvesting operations;
4. Earth excavations covered by RSA 155-E; and
5. Shoreland Impact Permits under the Shoreland Water Quality Protection Act (RSA 483-B).
Shoreland Permits by Notification may be subject to requirements of this article as determined by the Code Official.

RATIONALE: This proposed amendment would require stormwater management measures to be provided for construction or lot development of any size that allows runoff to leave the subject property.

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Susan Stevens came to the table. She asked if there was a lot that someone wanted to build a large building on it, would it be more building than ground exposed for absorption of water. She wanted to know if that was why the Board was changing the ordinance. Virgil MacDonald stated, no. Scott Williams stated that stormwater protection had been around for a long time. Susan Stevens stated that she knew the Board had approved things like that in the past. Virgil MacDonald stated that the changes to the ordinance stopped an abutter from having water run onto their neighbor's lot without maintaining it and taking care of the situation so the neighbor would not lose their land because the other neighbor wanted to do something on their property. Susan Stevens asked if the ordinance only pertained to a slope. Scott Williams stated it was for any lot; additional discharge of water could not occur post-development than the lot was pre-development. Susan Stevens stated then yes, it had to do with the size of the lot also. Scott Williams stated that any building construction would fall under the new ordinance. Susan Stevens thought that should be tied into that, stating it was not in conflict with the other ordinance. Scott Williams stated this ordinance had nothing to do with the other ordinance; it had to do with every lot in the Town of Alton. Virgil MacDonald stated that if he built on his property, he could not have additional water draining onto his neighbor's property. Susan Stevens stated that there was a new building put up the street from her that she noticed they got a waiver or Special Exception for and the house and a huge garage now took up more of the lot than was allowed normally because there had to be so much open space to absorb water; she stated that all municipalities were doing that now. Scott Williams stated there were methods to achieve that even with a very high lot coverage ratio. He stated that the point of this ordinance was to protect everyone.

Roger Sample closed public input.

**Scott Williams MOVED to advance the proposed Town of Alton Zoning Amendment #3 as amended, for a ballot vote in March 2019.
Russ Wilder seconded the motion, and it PASSED unanimously.**

PLANNING BOARD PROPOSED AMENDMENT #4:

1. *Amend Article 200, Definitions, to add a definition of Product Storage Area.*
2. *Amend Article 300, General Provisions, to add a new Section 322, Product Storage Area.*

RATIONALE:

This proposed amendment would add a new use to permit the outside storage of products that are not sold from the site but are marketed online or other offsite means and delivered to the purchaser.

DISCUSSION:

Roger Sample pointed out that at the previous meeting, the Board wanted to change the proposed amendment to read as follows:

1. *Amend Article 200, Definitions, to add a definition of Product Storage Area, as follows:*

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Product Storage Area - *A property for the outdoor storage of products marketed offsite for later distribution to wholesale or retail customers. Examples of these products include, but are not limited to, shipping containers, and other durable goods.*

2. Amend Article 300, General Provisions, to add a new Section 322, Product Storage Area.

SECTION 322 PRODUCT STORAGE AREA

A Product Storage Area is a property for the outdoor storage of products marketed offsite for later distribution to wholesale or retail customers. Examples of these products include, but are not limited to, shipping containers, and other durable goods.

Onsite wholesale or retail sales, individual pickup of items, general public access, or terminal facilities for handling freight are not included in this use. Boat storage is not included in this use. Junkyards are not included in this use.

Properties used for a Product Storage Area shall either maintain a minimum 25' vegetative screening buffer to abutting properties, install plantings to achieve the same effect, or install fencing of a design and color that will minimize visual impact to abutting properties and blend as closely as possible with the surroundings. Fences and/or a screening buffer and/or plantings shall be a minimum of six feet in height, and shall completely surround the Product Storage Area.

The use of a structure for an onsite office is permitted, but there shall be no assembly, maintenance or cleaning performed on the stored items. Hours of operation shall be set so as to minimize negative impact on the surrounding neighborhood. Access to the property shall be provided from a Class V or better highway. Non-residential Site Plan Review shall be required.

RATIONALE:

This proposed amendment would add a new use to permit the outside storage of products that are not sold from the site but are marketed online or other offsite means and delivered to the purchaser.

DISCUSSION:

Virgil MacDonald asked what the normal buffer zone was. John Dever, III, stated that this ordinance was a new use. Virgil MacDonald asked if there were any buffer zones that were 25', because he thought that was a very large area; he noted that the boatyards did not have that much of a buffer zone. Scott Williams thought that when one of the Town's campgrounds was built, they had an 80'-100' buffer zone. Russ Wilder wanted to clarify where the Residential Commercial Zone was located in Town. Scott Williams noted that the Residential Commercial Zone was basically Main Street; it began roughly at the Alton Traffic Circle and roughly up to Sandy Point. He also noted that the Residential Commercial Zone went up a short ways on Route 28 towards Wolfeboro, and stopped just after the carwash next to the American Legion. Russ Wilder noted that the ordinance would allow townspeople to store commercial products on their property with the anticipation of eventually using them; they could not process them. Scott Williams noted, for example, if someone only had enough room to sell 100 dozen eggs in their store, and they had additional eggs, they would be able to purchase a lot, get it approved as a Product Storage Area, and then they would be able to store their eggs there and then move them to the retail store when it was time to sell

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them. Russ Wilder pointed out that was for new lots, but what if there was an existing lot. Scott Williams thought that issue would have already been discussed during a Site Plan Review. Russ Wilder was not sure how often this ordinance would be used. Virgil MacDonald stated that the Board had discussed it at length at the previous meeting. Roger Sample thought that it was not up to the Board to decide how often it would get used; it was making it allowable. Virgil MacDonald stated it was going to help John Dever, III, with commercial businesses. Scott Williams pointed out that in the Town of Tilton, car dealerships had several lots where they parked cars in a parking lot, but people did not go to those parking lots to purchase a car, they would go to the dealership.

Roger Sample read the second proposed change for Article #4:

3. *Amend Article 400, Zoning District Regulations, Section 401 Permitted Uses - Table of Uses, Section D. Retail Business and Service, to add new use #53, Product Storage Area, as follows:*

	Retail Business and Service	R	LR	RC	RR	RU	RS	Notes
53.	<i>Product Storage Area</i>	<i>N</i>	<i>N</i>	<i>NY</i>	<i>E</i>	<i>Y</i>	<i>N</i>	

RATIONALE:

This proposed amendment would add a new use to permit the outside storage of products that are not sold from the site but are marketed online or other offsite means and delivered to the purchaser.

This change would allow this use in the Residential Commercial Zone.

Roger Sample opened public input.

Al Stevens stated that this ordinance would now allow shipping containers all up and down Main Street. Roger Sample stated only if they had the property buffering that the ordinance called for. Al Stevens stated that shipping containers were 8’ - 9’ in height, so they would be peeking over the fence. Susan Stevens stated that she had to drive through this area to get to her house, so she wanted to go on record that she was against it; it was completely unsightly, and a storage facility was just built in town, and why couldn’t people just use that. She thought that the Board was killing the aesthetics of the Town if they were going to allow shipping containers to be parked down by places like Pop’s and Shibley’s. Roger Sample stated in order for containers to be stored down by Pop’s, people would have to come in for a Site Plan Review. Scott Williams clarified that every Product Storage Area would have to come in for a Site Plan Review. Bob Regan thought that the most likely utilization of this ordinance would be in a Rural Zone and not so much in the Residential Commercial Zone because not too many of the Residential Commercial Zone units would be able to accommodate one. Virgil MacDonald thought that there would not be many on Main Street due to the setback requirements. John Dever, III, stated that this ordinance was not being put in place to allow containers at Pop’s because originally this use was to be allowed in the Residential Rural and Rural Zones because those areas had larger lots and would have the ability to have more screening; this ordinance was not put in place to allow for numerous shipping containers to be used as storage units; therefore, this was not similar to a self-storage facility. Roger Sample stated that he had property on Main Street, and wanted to know if he put a storage container on his property, would he have to go to John Dever, III; he stated that he had not had to address that issue yet. Roger Sample

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thought that this ordinance stated that if someone wanted a storage container, then the Board was going to require buffers, etc. He wanted to know if he just wanted a storage container, could he just go get one and place it on his property. John Dever, III, stated that was similar to having a storage shed. He noted that Roger Sample would have to get a permit; it would be the same as if he purchased a shed and had it dropped off because there were setbacks and other items to take into consideration. John Dever, III, stated that was not what this use was all about. Scott Williams stated that the current ordinance would allow a storage container as an accessory use, but what it did not allow was a property owner to have 25 of them on their property to sell all over the world; that was the difference. One storage container was allowed as a property owner; there was a difference of having one container and a business of selling containers.

Roger Sample closed public input.

Roger Sample asked about PODS. John Dever, III, stated those containers were supposed to be temporary. His interpretation of this was, if a shed could not be picked up and moved, then a permit was needed; there was a minimum requirement that under 120 s.f. did not require a building permit, but it still required a review to make sure it was not within the setbacks, etc. He clarified that this article was about a business that was established somewhere and would be storing their items that would be for sale at some point and would be sold off site. This ordinance did not have anything to do with storing personal items.

Roger Sample wanted to know who was to say that this was different. Scott Williams stated that if there were 25 storage containers in someone's yard that would be the difference. John Dever, III, asked Roger Sample how many times he had seen storage containers for sale on the internet. Russ Wilder thought that he thought it gave more flexibility for the use of the land in the Residential Commercial Zone, and he did not think it would be an eyesore. John Dever, III, stated that the Zoning Ordinance was like a living document that had to change with the times, like things for containers; 10 years ago, there were not many people with containers in their yard. Another example was tiny homes.

John Dever, III, stated that ZAC looked at issues within the town when they proposed zoning amendments: 1. To correct something that may be out of whack; and 2. To grow the ordinance with the Town and the times by keeping within the intent of the Master Plan.

Scott Williams MOVED to advance the proposed Town of Alton Zoning Amendment #4 as amended, for a ballot vote in March 2019.

Virgil MacDonald seconded the motion, and it PASSED unanimously.

Case # P18-04 Anthony Costello, A.C. Engineering, Agent for JOBEAN, LLC/Dean Puzzo, Manager	Map 26 Lot 10	Final Minor Site Plan Review Residential Commercial (RC) Zone 19 Homestead Place, Suite 5
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The Chairman read the case into the record.

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Present were Anthony Costello, agent and Theresa Puzzo, owner.

Scott Williams wanted a quick review because the case had been continued several times. Anthony Costello stated that he had been waiting on the review from the engineer and the drainage study. He was under the impression that the Board had received comments back stating that KV Partners was fine with everything. KV Partners recommended to have an engineer onsite during wall construction to make sure it would not undermine the existing boulder wall; they were fine with the drainage design and revisions SFC Engineering made to their wall design.

Anthony Costello mentioned that the other issues that were taken care of were: detail needed to be added to the plan for a parking stall; and there was an issue with site landscaping, so Dean Puzzo submitted an updated site plan that showed the overall greenspace calculations that showed 30+% of greenspace. Russ Wilder asked if that area consisted of the lawns that were located in front of the house and the wooded area. Anthony Costello stated that it did not include the wooded area. Scott Williams thought that the wooded area belonged to the Hannaford property. Russ Wilder referred to the last page of the plan where it listed greenspace analysis; he noted that there was 11,250 s.f. located in the wooded area, and 4,000 s.f. behind the building.

Russ Wilder noted that in previous conversations, there was supposed to be a road located out back of the building; Anthony Costello stated that road was taken out. Russ Wilder thought that the Fire Department would need access in order to get around the building. Anthony Costello stated that the Fire Department was fine with having access to the side of the building, and Dean Puzzo was only going to put that in so there could be access to the garage that was off to the side. Roger Sample asked if the Fire Department approved the revised plan. Anthony Costello stated that the side of the building where the additional parking was located was now paved instead of it being graveled. Russ Wilder pointed out that the lawn areas would be the greenspace. Anthony Costello stated that even if he took out the 11,250 s.f. of wooded area out of the computation, it would still leave about 20% greenspace, which was over the required 15%. Russ Wilder inquired about the documentation that the graveled area was going to be paved. Anthony Costello stated it would be on the new site plans.

Anthony Costello brought up the waiver request to parking lot landscaping because there were not a lot of areas to put landscaping unless they took out a parking space in the middle of the parking lot. He thought if that was the case, it would make plowing difficult during the winter months. He proposed to plant a tree in between the parking lot across the front and the utility parking lot, and there was an existing 24" maple tree to the south side of the utility parking lot. He pointed out that the requirements were to have two (2) trees, but they did not have the square footage that was required for the interior landscaping area. Roger Sample thought that some landscaping could be done around building #28. Anthony Costello stated that he was only looking at the new building; he was not planning to change any of the existing areas. Theresa Puzzo asked Roger Sample if he meant #26 and not #28 because #28 was in the middle of the property; she asked where he was proposing the new landscaping be planted. Roger Sample thought that if there was an island in that area, a tree could be planted there. He asked if the Board was referring to the new project or the entire project when they were discussing landscaping. Russ Wilder mentioned that the Board accepted the application as a Minor Site Plan because they had assumed the rest of the property was done and had met the requirements of the original site plan. He thought that the Board should focus on the new property only. Anthony Costello stated that they were going to plant some shrubs along the back side of the building so it would buffer the view from the traffic circle; he had added

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six (6) more shrubs along the west side of the parking areas. Russ Wilder wanted to confirm that the parking spaces indicated in black were already there, and the parking spaces outlined in blue were the new spaces; Anthony Costello stated, yes. Roger was fine with their proposal and did not think it made any sense to get rid of a parking space just to put in trees.

Russ Wilder went over Traffic Study Details. He stated that a report dated August 5, 2010, was submitted to the Board that was done on the previous project. Anthony Costello stated at the last meeting, there was a discussion about a traffic study, but in his notes, he had it crossed off. Theresa Puzzo stated that a traffic study was not needed because the delta was small.

Russ Wilder stated that the septic system was designed in 2002, which could handle 45 gallons per day and it needed 1,650. Anthony Costello stated that he was going to propose a new septic as part of a conditional approval. Theresa Puzzo stated that Mark Sargent was working on drawing up the new system. Russ Wilder noted that it had to have an H-20 loading.

Russ Wilder noted that the parking space dimensions and striping with signage and symbols was still needed for the parking lot.

Russ Wilder brought up the fact that stormwater drainage and erosion control were reviewed by the Town Engineer and were acceptable as designed.

Russ Wilder noted that the sign details were located on C6 of the plans. The sign was 2.5'x4' in size that was wall mounted and lit from above.

Russ Wilder noted that the hours of operation would be 7:00 am – 11:00 pm, seven days a week.

Russ Wilder stated that the active and substantial development and building, and substantial completion of improvements were two criteria that the Board needed to discuss, along with the project schedule. He asked if the applicant was still looking for 24 months to start the redi-rock retaining wall, and four (4) years to start construction of the new building, and he wanted to know if that clock started today. Anthony Costello stated those conditions would start when the plans were signed. Russ Wilder noted that there would be at least two (2) years of work just to get the wall completed. Anthony Costello stated that time included obtaining the financing and the physical work. Russ Wilder asked if the Board wanted to take the completion of the wall within 24 months as the active and substantial development and building criteria. Scott Williams thought that Mr. Puzzo would be putting up a lot of money for that wall, so he thought that was a good threshold. Nic Strong stated that as far as the deadlines in the regulations, there was some flexibility, but the statutory deadline was 24 months, and then there was 5 years for substantial completion to vest everybody and guarantee that the Town and the applicant were protected. The Board had to come up with something for the 24-month and the 5-year deadlines. Nic Strong explained that back in February of 2018, Dean Puzzo requested a certain time to start the construction of the redi-rock wall, and then another two (2) years to start construction of the new building. Nic Strong pointed out that did not meet the Board's standard timeframes in their regulations; furthermore, the statutory part of the regulation had to have something in those two categories, 24-months for active and substantial development and building, and the 5-year substantial completion of improvements. Anthony Costello stated that the wall should be completed within two (2) years. Russ Wilder pointed out that there was a concern about undermining the wall that was currently in place. Nic Strong stated that the design

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engineer revised their sketch and the Town Engineer signed off on it; the Town Engineer will need an escrow account set up for his inspections. Nic Strong asked the Board what the substantial completion of improvements were going to be. Russ Wilder thought the completion of the foundation would be good for the substantial completion of improvements.

Russ Wilder noted that if the Board were to conditionally approve the application at tonight's meeting, Mr. Puzzo needed to receive a septic design approval. Scott Williams asked about the lighting layout. Nic Strong stated that was shown on sheet C4 of the plan. Scott Williams asked what color the lights were, noting the Board's requirement that they be below 3,000K. Virgil MacDonald pointed out that there were no lights on the roadside to show the building off at night or to draw in business; Anthony Costello stated he was not proposing anything. Bob Regan thought that the area was visible at night as it was now. He noted that there was going to be a sign on that side of the building anyways that would have a downlight shining on it.

Roger Sample opened public input. No public input. Roger Sample closed public input.

After due hearing, Russ Wilder MOVED that the Alton Planning Board hereby approves Case #P18-04 for JOBEAN, LLC, for a Minor Site Plan Review for the replacement of the existing retail/office building at 32 Homestead Place with a 3,600 s.f. single story retail/office building, Map 26 Lot 10, with the following conditions:

CONDITIONS PRECEDENT

The following conditions precedent must be satisfied prior to the Planning Board Chair signing of plans:

- 1. Submission of revised plans in the number required by the Site Plan Review Regulations and that include all of the checklist corrections, any corrections as noted at this hearing and any waivers granted.**
- 2. Addition of a note to the site plan prior to plan signing by the Planning Board Chair: This site plan contains a total of ___ sheet(s): [to be listed and dated by the applicant on the site plan itself]. In combination these plans constitute in their entirety the site plan as approved by the Town of Alton Planning Board. All sheets are on file at the Town of Alton Planning Department.**
- 3. Addition of a note to the site plan prior to plan signing by the Planning Board Chair: This site plan is subject to the Conditions of Approval itemized in the January 15, 2019, Notice of Decision on file at the Town of Alton Planning Department.**
- 4. Receipt of the amount of the estimate from the Town Engineer for construction observations of the installation of the Redi-Rock retaining wall for deposit in an escrow account for that purpose.**
- 5. Prior to construction of the Redi-Rock retaining wall a preconstruction meeting shall be held in accordance with the Construction Observation Guidelines.**

- 6. Submission of NHDES approval for construction of a new septic system with H-20 loading as required.**

SUBSEQUENT CONDITIONS

The following subsequent conditions shall be met during construction and on an on-going basis:

- 1. All site improvements are to be completed as per the approved site plans, prior to the issuance of any Certificate of Occupancy per this Notice of Decision and Section 1.22 of the Site Plan Review Regulations.**
- 2. The approved hours of operation for the proposed 3,600 s.f. retail/office building are 7:00 a.m. to 11:00 p.m. 7 days a week.**
- 3. The applicant shall comply with all of the Town of Alton's Site Plan Review Regulations.**
- 4. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional Planning Board approval.**
- 5. All site changes shall be included in as-built plans to be submitted at project completion.**
- 6. A site plan which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.**
- 7. Once any and all conditions of approval have been met and the Chairman of the Planning Board or his designee signs the site plan, the applicant has twenty-four (24) months from the date of signing to start construction of the Redi-Rock retaining wall and forty-eight (48) months from the date of signing to start construction of the new 3,600 s.f. building, and, unless a different schedule is approved by the Board, must complete construction of the Redi-Rock retaining wall and the new 3,600 s.f. building within twelve (12) months of the start of their respective construction.**
- 8. As-built plans detailing the Redi-Rock retaining wall shall be submitted for review and approval by the Town Engineer prior to construction of the proposed 3,600 s.f. retail/office building. The cost of said review shall be at the applicant's expense.**
- 9. As-built plans depicting all site improvements for the entire property shall be submitted when all site improvements are complete.**

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10. If this site plan approval does not start construction within twenty-four (24) months it shall automatically expire, at which time no building permits shall be issued, unless an extension has been formally requested and granted by the Board. Normally the Board shall not grant more than one extension per project, shall only grant an extension for reasonable cause, and shall normally not grant an extension for more than six months.
11. No site may be occupied or used until a Conditional or Permanent Certificate of Occupancy Permit has been issued by the Code Official in accordance with Section 1.22 of the Site Plan Review Regulations.

ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND SUBSTANTIAL COMPLETION OF IMPROVEMENTS

1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ordinance changes: completion of the Redi-Rock retaining wall
2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting: completion of the building foundation

Unless otherwise approved by the Board, the applicant shall have one (1) year from the date of the meeting at which the application is approved with conditions to complete any conditions that are required prior to signing the site plan. Failure to complete any conditions within the one (1) year timeframe shall invalidate the Board's approval, unless an extension is approved by the Board per Section 1.14 of the Town of Alton Site Plan Review Regulations.

Scott Williams seconded the motion, and it PASSED unanimously.

2. **Continued from December 18, 2018**

<p>Case # P18-30 Paul F. Zuzgo, LLS, of Prospect Mountain Survey, Agent for Gregory Kneeland, Owner</p>	<p>Map 8 Lot 47</p>	<p>Final Minor Subdivision Residential Commercial (RC) 81 Range Road</p>
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The Chairman read the case into the record.

Present was Paul F. Zuzgo, LLS, agent.

Russ Wilder MOVED to accept the application for Case #P18-30, as complete. Scott Williams seconded the motion, and it PASSED unanimously.

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Russ Wilder addressed the waiver request. This waiver was to address the shape of the lot and the standards. Paul F. Zuzgo, LLS, stated that the lot was irregular; it was long, skinny, and it abutted three roads. He mentioned that in the RC Zone, there probably could have been three (3) lots along Range Road, but it still would have left the remaining land in an odd shape. The proposed lot with the existing house met the lot to width ratio. The remaining land split the road frontage on Range Road, the DOT road, and out on Route 28. The waiver was on the portion of the land that was remaining on the DOT portion of the road. Russ Wilder noted that the only dry portion of the land was off Range Road. Paul F. Zuzgo, LLS, stated that the only other dryland was down near the American Legion. He stated that he approached the American Legion to see if they wanted to do a lot line adjustment, but they did not get back to him. Scott Williams stated that the applicant could use the town road and the setbacks on the house across the street, for example, if there was a 25' centerline setback, the well radius could go into the 25' setback across the street because they could not build. Virgil MacDonald was concerned about the salt on the roads in the wintertime. Scott Williams stated that technically there was not supposed to be any infiltration into a well. Russ Wilder noted that the State stored salt in the DOT lot. Scott Williams noted that the salt was covered by a shed. Paul F. Zuzgo, LLS, mentioned that the well radius was now completely on the lot. Russ Wilder asked if the November 8, 2018, plan was the latest version. Paul F. Zuzgo, LLS, stated that he had a later version of the plan dated January 13, 2019. The upland on the remaining land was over 30,000 s.f., which was the minimum lot size for the zone. Russ Wilder asked if what was shown to be proposed was Map 8 Lot 47-3, and if the house and the layout of the lot on Lot 47 would be buildable; Paul F. Zuzgo, LLS, stated, yes. Russ Wilder asked about the proposed driveway because it appeared to go down about 2'; Paul F. Zuzgo, LLS, stated it went down 4' and was a distance of 60'. He noted that there was a test pit located in the upper right hand corner of the plan for the septic. Russ Wilder asked how big of an area was required for a septic. Paul F. Zuzgo, LLS, stated 4,000 s.f. for a State Subdivision Approval. Russ Wilder noted that when the Conservation Commission looked at the application, their concerns were that most of the land was wetlands and the applicant would be creating a lot that would have problems and would need waivers. Paul F. Zuzgo, LLS, stated that he had a septic system designer dig a test pit and even though those soils were wet, they were classified as a Class III. Scott Williams stated that there was a 24" seasonal high water table, which was average for that area. Russ Wilder asked if there were any easements or any other encumbrances on the property; Paul F. Zuzgo, LLS, stated, no. Russ Wilder asked what the dashed line was on the plan. Paul F. Zuzgo, LLS, stated that was a soil line.

Russ Wilder wanted to know why it was stated that there was no further plans for development. Paul L. Zuzgo, LLS, stated that the property could not be further subdivided after what was being proposed. He stated that a lot line adjustment could occur if the American Legion wanted the corner portion of the property. Russ Wilder noted where the test pit occurred, but there was no approved septic design, which was a question on the Planner Review. The plan showed the test pit, which indicated that the area was large enough to accommodate a septic system.

Russ Wilder MOVED to grant the waiver requested to Subdivision Regulation, Section VIII.F.2., Lot Standards, because the remaining land did not meet the 3:1 ratio requirement. Scott Williams seconded the motion, and it PASSED unanimously.

Russ Wilder noted that the Planner Review indicated that no profiles or cross sections were submitted and the sight distance analysis was missing. He noted that Scott Williams pointed out that this area had a straight section of road and the driveway was only going to drop 4'. Scott Williams noted that in the end,

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it probably would not drop very much because the house was going to be built up. Russ Wilder noted that the Planner Review addressed the front lot corner on Range Road was shown as either a drill hole or rebar. Paul F. Zuzgo, LLS, thought that the Regulations stated that the granite bounds were supposed to be on the road, but there was a stone wall there; he was most likely going to drill a hole. Nic Strong stated that was acceptable, but in the past, the Board had required a waiver so they would know that a different bound had been put in than the Regulations required. Paul F. Zuzgo, LLS, stated that he was going to set another boundary marker along the DOT property because currently, there was none.

Russ Wilder MOVED to grant a waiver requested to Section VIII M. 2. Property Monumentation – Bounds and Pins, Monuments to allow a drillhole instead of a granite bound.

Scott Williams seconded the motion, and it PASSED unanimously.

Russ Wilder thought that recording the plans and setting the bounds within 24 months should be required for active and substantial development or building, and those same requirements would also be for substantial completion. Scott Williams stated that the Board did not want to put in requirements for a foundation because the owners might not start building until they retired.

Roger Sample opened public input. No public input. Roger Sample closed public input.

After due hearing Russ Wilder MOVED that the Alton Planning Board hereby approves the above cited application for Gregory Kneeland, for a Final Minor Subdivision for a two lot subdivision of Map 8 Lot 47, with the following conditions:

CONDITIONS PRECEDENT

The following conditions precedent must be satisfied prior to the Planning Board Chair signing of plans:

- 1. Submission of revised plans in the number required by the Subdivision Regulations and that include all of the checklist corrections, any corrections as noted at this hearing and any waivers granted.**
- 2. Addition of a note to the subdivision prior to plan signing by the Planning Board Chair: This subdivision plan contains a total of ___ sheets: [to be listed and dated by the applicant on the subdivision plan itself]. In combination, these plans constitute in their entirety the subdivision as approved by the Town of Alton Planning Board. All sheets are on file at the Town of Alton Planning Department.**
- 3. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair: This subdivision plan is subject to the Conditions of Approval itemized in the January 15, 2019, Notice of Decision on file at the Town of Alton Planning Department.**

- 4. Addition of a note to the subdivision plan prior to plan signing by the Planning Board Chair stating that Best Management Practices shall be utilized during any timber cutting on site.**

SUBSEQUENT CONDITIONS

The following subsequent conditions shall be met during construction and on an on-going basis:

- 1. All subdivision improvements are to be completed as per the approved subdivision plat.**
- 2. The applicant shall comply with all of the Town of Alton's Subdivision Regulations.**
- 3. The approval is based upon the plans, specifications and testimony submitted to the Planning Board. Any alterations, additions or changes to the plans are not authorized and require additional Planning Board approval.**
- 4. A subdivision plan which has been approved, conditionally or otherwise, may be revoked, in whole or in part, by the Planning Board when an applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans, or specifications upon which the approval was based, or has materially violated any requirements or conditions of such approval.**
- 5. Once any and all conditions of approval have been met and the Chairman of the Planning Board or his designee signs a subdivision plan, the applicant has twelve (12) months from the date of signing to start construction and, unless a different schedule is approved by the Board, must complete construction within thirty-six (36) months unless an extension has been formally requested and granted by the Board. Normally the Board shall not grant more than one extension per project, shall only grant an extension for reasonable cause, and shall normally not grant an extension for more than six months.**

ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING AND SUBSTANTIAL COMPLETION OF IMPROVEMENTS

- 1. Within 24 months after the date of approval, the following items must be completed in order to constitute "active and substantial development or building" pursuant to RSA 674:39,I, relative to the 5-year exemption to regulation/ordinance changes: setting bounds and recording plans**
- 2. The following items must be completed in order to constitute "substantial completion of the improvements" pursuant to RSA 674:39,II, relative to final vesting: setting bounds and recording plans**

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Unless otherwise approved by the Board, the applicant shall have one (1) year from the date of the meeting at which the application is approved with conditions to complete any conditions precedent that are required prior to signing and recording the subdivision plat. Failure to complete any conditions within the one (1) year timeframe shall invalidate the Board's approval, unless an extension is approved by the Board per Section XI, C. 2. of the Town of Alton Subdivision Regulations.

Scott Williams seconded the motion, and it PASSED unanimously.

<p>Case # P19-03 Ryan Heath of Ryan L. Heath, LLC, Owner</p>	<p>Map 8 Lot 25</p>	<p>Conceptual Consultation Residential Rural (RR) Zone 182 Frank C. Gilman Hgwy.</p>
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The Chairman read the case into the record.

Present was Ryan Heath, owner.

Ryan Heath had submitted a copy of a plan that was of his approved senior housing complex off Route 140. Currently, the complex was approved with 45 rental units. He mentioned that a woman by the name of Carol had approached him with the concept of changing the complex from rental units to condominium units. He thought this proposal would reduce the density. All of the engineering, permitting, and age restrictions would stay the same; currently the buildings were designed for four units (900-950 s.f.). The footprint would not change, but he wanted to offer, on four of the buildings, which would reduce eight units, was to make them duplexes instead of quadplexes; the footprint would stay the same, but this proposal would increase the square footage of each unit to roughly 1,800 s.f.. His goal was to not just build apartments; he wanted to build the units to accommodate seniors so they could live in “age in place” homes.

Ryan Heath wanted to reduce the unit numbers by eight (8) units if he built four (4) buildings as duplexes instead of quadplexes. The road design would not be changed, and neither would the parking or impervious surface; an oversized garage unit would be built, plus a ramp entrance into the home. He pointed out that all of his State, wetland, and Army Corps of Engineer permits were still valid. He had already performed an engineered traffic study for the full density of 45 units. There was an existing house that was considered the 45th unit, which would also be conveyed into condominium units.

Russ Wilder asked if this was subject to the groundwater contamination issue; Ryan Heath stated, yes. He stated that this project was approved on the contingency of being able to tap into municipal water. He noted that the water would be extended from the fire hydrant on Route 140 that was half way up the hill and would angle bore underneath Route 140 and continue the municipal water line up to the development; there would not be any wells drilled.

Russ Wilder noted that there was a zoning amendment that was being proposed to the townspeople at the March Town Meeting that increased the number of condominium units to five (5). He wanted to know if the number of units changed in each building. Ryan Heath stated that there would be a reduction in units. Russ Wilder pointed out that the traffic would decrease with this new proposal. Ryan Heath stated that

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the biggest thing with this proposal was the change in ownership. It would make things a lot easier to get this project moving forward. He noted that part of the partnership with Carol consisted of when the first building was put in, that house would be used as a display home.

Nic Strong stated that Ryan Heath would have to submit a subdivision plan, with the potential of also having to submit a non-residential site plan review. Ryan Heath mentioned that since he was vested with his prior approval for senior housing, it made it easier to present this proposal because he did not have to do a Site Plan application or any of his permits all over again. Russ Wilder noted that the only difference with this proposal was that he had to subdivide the land because there would be separate ownership.

Other Business:

1. **Old Business:**
2. **New Business:**
3. **Approval of Minutes:** December 18, 2018

Virgil MacDonald MOVED to approve the minutes of December 18, 2018, as presented.

Scott Williams seconded the motion, and it PASSED unanimously.

4. **Correspondence for the Board's review/discussion/action:**

- a. Case P19-02, Voluntary Lot Merger Application for Douglas T. & Jane W. Cook, Map 46 Lots 14 & 15, 223 & 225 Damon Drive, Alton, NH 03809.

Russ Wilder asked if someone was going to present the application. Nic Strong stated that usually, people do not show up at the meetings for a voluntary lot merger. Virgil MacDonald pointed out that the Town Assessor, Deb Derrick, had a concern about the right-of-way between the two (2) lots. Nic Strong stated that nothing would change because it was indicated in the deeds. Russ Wilder pointed out that Nic Strong made mention about a demolished camp. Nic Strong stated that she received confirmation from Atty. Walker that the camp was demolished in October 4, 2018, but they did not receive a permit for that. Nic Strong stated that there was only one house on the property, which was why they could do the merger. Virgil MacDonald asked if property owners needed to get a demolition permit; Scott Williams stated, yes. Nic Strong stated that property owners should get a permit because it would lower their taxes, because if the Town was not notified, then that structure would still be taxed on. Scott Williams stated that before someone received a demolition permit, mitigation needed to be done for lead and asbestos. Nic Strong stated there was a mortgage on one lot, but the mortgagor consented to the two (2) lots being merged. Russ Wilder asked if there was any documentation; Nic Strong stated, yes.

Roger Sample opened public input. No public input. Roger Sample closed public input.

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Virgil MacDonald MOVED to approve the Voluntary Lot Merger for Case #P19-02.

Scott Williams seconded the motion, and it PASSED unanimously.

5. Correspondence for the Board's information:

- a. Letter dated December 17, 2018, from NH DOT re: resurfacing project on NH Route 11 and NH Route 28 in the towns of Alton, Wolfeboro, Farmington, and Rochester.

Virgil MacDonald MOVED to have the Board send a letter to the NH DOT asking for the rumble strips to be removed when they paved.

Scott Williams seconded the motion.

Virgil MacDonald stated that he lived about 1.5 miles away from Route 28 and he could hear the rumble strips. He thought that if NH DOT would not get rid of the rumble strips, then they should not pave. He noted that the Roberts' Knoll Campground sent a second letter to NH DOT informing them that they were not happy with the rumble strips either. Bob Regan stated that he too lived 1.5 miles from Route 28 and when the rumble strips were on the sides of the road, it was really loud. He stated that since they removed the side rumble strips, it was not so bad, but he did think that the rumble strips in the middle of the road made a difference, especially if the roads were snowy, you could tell where the middle of the road was. Roger Sample thought they were a good thing because of all the people who text and drive. Virgil MacDonald stated that since the Town started keeping track of accidents, there had been two (2) accidents on Route 28 that resulted in death. He pointed out that half of Route 11 did not have rumble strips and they have had 30 deaths. Roger Sample pointed out that Route 11 had more accidents where there were no rumble strips. Virgil MacDonald stated that was right; therefore, he did not think that the rumble strips were needed if there only had been two (2) accidents in 60 years. Scott Williams thought that there had been more than two (2) accidents within that time span, but it was not a ton. Virgil MacDonald stated that the State had cut the strips $\frac{3}{4}$ " deeper than any other of the rumble strips they installed in the surrounding areas, because he had gone all over measuring how deep they were. He stated that the State did not have any engineers on the job and when the company that was hired did the work, the State was upset because the strips were put in wrong. Scott Williams stated that there was another option that was like a teardrop shape that feathered up to nothing, and a reflector could be set in it, which would leave a slight bump when you drove over them.

Roger Sample asked the Board for a vote. The motion was DENIED with Virgil MacDonald and Scott Williams voting yes, and Russ Wilder, Roger Sample, and Bob Regan voting no.

Roger Sample MOVED to inquire with the NH DOT to find a quieter alternative rumble strip.

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Virgil MacDonald seconded the motion, and it PASSED with Russ Wilder, Roger Sample, Bob Regan, and Scott Williams voting: Aye, and Virgil MacDonald voting: Nay.

Nic Strong noted that the letter to the NH DOT would request them to investigate quieter alternatives for rumble strips.

- b. NHMA Court Update re: Planning Boards cannot rely upon lay opinions and anecdotes refuted by uncontroverted expert evidence. Planning Boards cannot supplant the specific regulations and ordinances that control the site plan review process with their own personal feelings.

Nic Strong stated that a long time ago, there was a case, Durant vs. Dunbarton, where a subdivision was denied based on the Planning Board's opinion of the particular location and their expertise and knowledge of the Town. She noted that there were surveyed plans, reports on wetlands, and all other kinds of technical information that was submitted. The Court upheld the Town's decision because they said the Planning Board had to have the discretion to use their expertise and their local knowledge. She stated that this case did not take that away, but it did strengthen the fact that if the Board had an expert opinion or a study prepared by a licensed professional, it would not allow a Board member to refute their findings and go ahead with their opinion anyways; that was when the Board could be in trouble. If the Board wanted to overturn an expert opinion, they could not rely on their opinion but should get a third party expert and pay for that out of the Town budget.

Russ Wilder shared that when he was on the Planning Board in Windham, they had an application go before them for a McDonald's on the corner of Route 111 and Route 111A. They wanted to put an entrance within about 50' of the stop light and the Board thought that would create a terrible back up. The developer stuck with their plan and that was the way they wanted it built; therefore, the Windham Planning Board hired their own engineer to prove that the Board was right. The engineer looked at the situation and determined that the developer was right.

6. Any Other Business that may come before the Board:

Nic Strong wanted to talk to the Board about term limits. She noted that Peter Bolster's and Russ Wilder's 3-year terms were up this year, and Dave Hussey was only appointed to fill in until this year's election; therefore, there was a 2-year term also available. Nic Strong further noted that Roger Sample's seat was up in 2020, and Scott Williams' and Tom Hoopes' seats were up in 2021. The filing period was from January 23, through February 1, 2019.

Public Input on Non-Case Specific Local Planning Issues

ADJOURNMENT

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**At 9:00 p.m., Russ Wilder MOVED to adjourn.
Roger Sample seconded the motion, and it PASSED unanimously.**

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as submitted: February 19, 2019