

TOWN OF ALTON PLANNING BOARD
NONPUBLIC MEETING MIINUTES
Tuesday, February 18, 2025, at 6:00 PM
Alton Town Hall, 1 Monument Square, Alton, NH 03809

MEMBERS PRESENT

Bill O’Neil, Chair
Roger Sample, Vice Chair
Tom Diveny, Clerk
Doug Brown, Member
Nick Buonopane, III, Board of Selectmen’s Representative
Christine O’Brien, Alternate Member

OTHERS PRESENT

Jessie MacArthur, Town Planner

MOTION TO ENTER NONPUBLIC SESSION

Mr. Buonopane moved to enter into a nonpublic session at 6:09 P.M. under RSA 91-A:3, II(l)
Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

Seconded by Mr. Brown.

Roll Call Vote:

Roger Sample, Nay
Doug Brown, Yes
Tom Diveny, Yes
Christine O’Brien, Yes
Nick Buonopane, III, Yes
Bill O’Neil, Yes

The Board then proceeded to leave the meeting room to convene downstairs in the Heidke Room.

DISCUSSION

The Board reviewed the recommendations laid out in the February 18, 2025, email by Town Counsel, as follows:

“Please share this email with the planning board ahead of tonight’s meeting. Note that the planning board may discuss this email in nonpublic session pursuant to RSA 91-A:3, II(L). In addition, if the planning board wishes to release the attorney-client privilege to make public the below legal advice, it can do so by simple vote during the public session of the meeting, and could then distribute this email to the interested parties.

On behalf of the planning board (“PB”), you had asked me to provide guidance on two issues:

1. The interpretation of Sect. 452, B, requiring each lot to have “a minimum width of 200 feet frontage at the street or highway line”; and
2. The interpretation of Sect. 452, D requiring each lot created after March 2007 to have a

“minimum buildable area made up of contiguous upland and slopes (not greater than 25%), of no less than 75% of the minimum lot requirements for the zone.”

In answering these questions, I have reviewed the Jan. 21, 2025 PB meeting minutes, the Jan. 15, 2025 submissions by Atty Rob Miller and Rich Chellman (each on behalf of an abutter, the Casale’s), the Feb. 10, 2025 submission by Atty John Cronin (on behalf of the applicant Lakes Hospitality Group), as well as the Town zoning ordinance and subdivision regulations.

Summary:

I believe the applicant’s position is more persuasive for both issues 1 & 2 described above, and so I do not agree with the arguments put forth by Casale; *therefore, I recommend the PB vote that the lots in question on the proposed subdivision are compliant with Town ZO Sections 452, B & D despite the objections raised by Casale.* The PB can then continue its review of the merits of the subdivision application. By taking a specific vote on these two zoning issues described above, that will start the clock to allow Casale or any other aggrieved party to appeal the PB’s interpretation of the zoning ordinance.

Width of Frontage:

Casale makes much of the inclusion of the word “width” into the required frontage for the Rural District and seeks to insert a dictionary definition of “width” into the ZO that was not enacted by the voters; more specifically, Casale asks the PB to read into “width” a particular dictionary definition that the required frontage must be measured between the side lot lines at right angles where those side lot lines meet the front line or right of way line of the street. A plain reading of section 452, B does not support this interpretation. It is correct that “width” is not defined by the ZO and so it should be given its common usage. Several other definitions, however, define “width” and do not incorporate the right-angle requirement found in the Merriam-Webster version. For instance, Oxford Languages defines “width” as “the measurement or extent of something from side to side”; and the Cambridge Dictionary defines “width” as “the distance across something from one side to the other.” So, I do not agree that the voters intended to incorporate the right-angle requirement into how frontage was to be measured.

Further, to the extent that the inclusion of “width” is ambiguous, the PB’s historic and consistent interpretation of that language has placed an “administrative gloss” onto the term, and so the PB cannot now deviate from that interpretation unless the ZO is amended. *See Anderson v. Motorsports Holdings, LLC*, 155 N.H. 491 (2006). According to the town planning office, the “width” language has been part of the frontage requirements for the Rural Zone since 1972 (at Sect. 352 at the time), and part of the frontage requirements for the Residential Rural Zone since 1978 (at Sect. 363 at the time). The PB’s historic and consistent interpretation, respectively, has been to measure the frontage along the front line or right of way line regardless of the angle at which the side lot lines meet that front line.

Buildable Area:

Casale argues that setbacks should be excluded from a lot’s buildable area requirement of Section 452, D based primarily upon the definition of “building envelope”. The provision in question (Section 452, D), however, does not use the term “building envelope”; that term is only used when the ZO discusses nonconformities at Section 320. Casale’s argument then inserts a defined term into

93 Section 452, D that was not enacted by the voters. In addition, even though Casale is correct that the
94 definition of “building envelope” excludes setbacks, that demonstrates that the voters know how to
95 exclude “setbacks” when that is the intent and chose to limit that expressly defined term to Section
96 320. The omission of “setbacks” in Section 452, D, and the use of “building envelope” only in
97 Section 320, therefore means that the voters know how but chose not to exclude setbacks when
98 calculating “buildable area” pursuant to Section 452, D.”

99
100 The Chair asked the Board members if they agreed with Town Counsel’s recommendations, as noted
101 above. All members agreed that the information provided by Town Counsel regarding “width”
102 appeared to be how the town had been interpreting the ordinance all along. The Board also agreed
103 with the explanation of what should or should not be included when calculating a “buildable area”.

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105 The Board then proceeded back up to the meeting room and took their seats.

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107 **MOTION TO LEAVE NONPUBLIC SESSION**

108 Mr. Buonopane moved to leave the nonpublic session and return to public session at 6:20 P.M.

109 Seconded by Mr. Brown. Motion **PASSED**.

110
111 Respectfully Submitted,

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113 Jessie A. MacArthur, Town Planner

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115 Approved as presented: March 18, 2025