

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
Alton Town Hall
PUBLIC HEARING
March 5, 2020, 6:00 P.M.**

Members Present

Paul Monzione, Chairman
Frank Rich, Vice-Chair
Tim Morgan, member – excused absence
Paul LaRochelle, Selectman’s Representative/clerk
Thomas Lee, member

Others Present

John Dever, III, Code Enforcement Officer
Thomas Varney, P.E., Varney Engineering

CALL TO ORDER

Chair Monzione called the meeting to order at 6:10pm. He stated they have waited 10 minutes for Mr. Morgan to arrive as he sent notice that he would be late however they will be starting the meeting without him. Chair Monzione stated there is a quorum at this time with four members present.

APPOINTMENT OF ALTERNATES

Chair Monzione stated appointment of alternates cannot be done at this time as there are no alternate members available. He stated the Board is still looking for alternate members.

STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the Zoning Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds, which the Board must consider when making a determination. The purpose of the hearing is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against an appeal, but all facts and opinions based on reasonable assumptions will be considered. In the case of an appeal for a Variance, the Board must determine facts bearing upon the five criteria as set forth in the State’s Statutes. For a Special Exception, the Board must ascertain whether each of the standards set forth in the Zoning Ordinance have been or will be met.

APPROVAL OF AGENDA

The Board reviewed the Agenda. No changes were made.

Mr. LaRochelle made a motion to approve the Agenda as presented. Mr. Lee seconded the motion. Motion passed, 4-0-0.

CONTINUED FROM February 13, 2020

Case #Z19-25 Richard J. Fiore, Jr., Richard J. Fiore, Sr., & Arlene M. Fiore, Owners	19 Depot Street Map 27 Lot42	Special Exception Rural (RU) Zone
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A Special Exception is requested from **Article 400 Section 401D.5.** of the Zoning Ordinance to permit the repairs of commercial trucks on the property when off site work is not an option.

It was noted the applicant was not present for this application. Chair Monziona suggested postponing the hearing to the end of the meeting in case the applicant arrives. Mr. Dever noted the same would apply to Case #Z19-026.

Case #Z19-26 Richard J. Fiore, Jr., Richard J. Fiore, Sr., & Arlene M. Fiore, Owners	19 Depot Street Map 27 Lot 42	Variance Rural (RU) Zone
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A Variance is requested from **Article 400 Section 401D.13.** of the Zoning Ordinance to permit the use of boat storage on the property.

It was noted the applicant was not present for this application.

Mr. Rich made a motion to defer Cases #Z19-25 and Z19-26 to the end of the hearings tonight in case the applicant for both cases is able to be present. Mr. LaRochelle seconded the motion. Motion passed, 4-0-0.

Case #Z20-02 Thomas Varney, P.E., Varney Engineering, Agent for Geraldine Gaeta & Jonathan Paine, Owners	64 Barbara Drive Map 71 Lot 21	Variance Rural (RU) Zone
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A Special Exception is requested from **Article 300 Section 320 H (b)** of the Zoning Ordinance for construction of screen porch and deck which will expand the structure towards and into the building envelope.

Mr. LaRochelle stated he would be recusing himself from this case as he has spoken and dealt with Mr. Paine and Ms. Gaeta on this project.

Tom Varney, Varney Engineering, agent for Geraldine Gaeta & Jonathan Paine, owners stated he would like to wait until later in the meeting when there are four members of the board to hear the case. Chair Monziona confirmed Mr. Varney isn't asking to go to the end of the agenda but only until Mr. Morgan arrives. Mr. Varney confirmed that is correct.

Mr. Rich made a motion that Case #Z20-02 be deferred to the end of the hearing, and/or, when the additional member shows up, whichever comes first after the other cases to be heard. Mr. Lee seconded the motion. Motion passed, 3-0-0.

Case #Z20-03 & Z20-04 Jeff Kimball, Running Fox Renovations LLC., Agent for Carol & Paul St. Jean, Owners	11 Anniversary Hill Rd. Map 65 Lot 20	Special Exception Variance Lakeshore Residential (LR) Zone
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Z20-03: SPECIAL EXCEPTION to Article 320 D. of the Zoning Ordinance to permit a 14sf expansion of an enclosed porch for a house that is nonconforming for the use (2 single family homes on one lot).

Z20-04: VARIANCE to Article 300, Section 327 A. 3 and 320 H. d. of the Zoning Ordinance to permit a 14sf expansion of an enclosed porch which encroaches into the rear setback, and to convert 28sf of porch encroachment to living space.

The Board reviewed the application for completeness. It was noted there is no abutters list included in the packet. Mr. Dever confirmed it was submitted and copies were made for the Board to review.

Mr. Rich made a motion to accept the applications for Case Z20-03 and Z20-04 as complete. Mr. LaRochelle seconded the motion. Motion passed, 4-0-0.

Chair Monzione stated they would discuss one case at the time, beginning with the Special Exception, then make a decision before proceeding to the next case.

Jeff Kimball, Running Fox Renovations LLC., Agent for Carol & Paul St. Jean, owners, stated the porch on the house is existing, already screened in and is currently over the proposed line. He stated they want to add on to the porch to extend onto each side of the house, about 1'9" on each side. Mr. Kimball stated he doesn't see where it would cause issues with surrounding properties. Mr. Rich stated the site plan shows the existing 3-bedroom home but doesn't have a plan showing the plans for the porch. Mr. Dever explained the plans are for both cases and the red indicates the expansion of the porch; the yellow indicates the enclosure of the porch for Case #20-04. Mr. Kimball stated the expansion porch is about 14 square feet on each side for a total of 28 square feet. Mr. Rich confirmed it will remain within the setback and not go over the boundary line. Chair Monzione confirmed the square feet would expand into the area of encroachment. He noted 320.D indicates a nonconforming expansion cannot be done except for minor changes which meet the criteria in this, which include: not changing the original purpose and use, the expansion does not have a substantially different effect on the neighborhood, the expansion changes does not make any existing nonconforming building more nonconforming. Chair Monzione stated the expansion would encroach more than it currently does and make the nonconforming building, more nonconforming. Mr. Rich suggested it would be prudent to do the variance first. The Board concurred. Mr. Kimball concurred as well. Chair Monzione stated they would now discuss the request for variance, Case #20-04.

Mr. Kimball stated the variance request is for adding an additional 2' by 7', encroaching toward the boundary line, adding 2' of deck onto the side of the house, continuing the length of the house. He stated they would like to request a variance although it is already encroaching; it won't affect any of the properties surrounding it and will improve the look of the house. Chair Monziona confirmed the porch is not currently living space. Mr. Kimball stated it is currently entirely enclosed as a three-season porch although the area depicted in yellow on the plans would be converted into living space. Chair Monziona noted Article 320.D does not allow for a porch or deck be made into living space. He asked the current amount of encroachment. Mr. Kimball replied it is about 1' currently so its about 9' to the boundary line. Chair Monziona noted it would be 6' from the boundary line with the additional expansion. Mr. Lee asked about the purpose of the additional living space due to the homeowner's limited mobility. Mr. Kimball stated one reason is because there is a bedroom on the front side of the house and this will allow for it to be bigger which would be beneficial for the owners to access the area without going through the porch. Mr. Lee stated where they are looking to increase the encroachment is abutting the Spring Haven Campground and asked if the abutters approve of this. It was confirmed that they do. Mr. Dever stated there is a transit road that goes along the property line so there are no campers or vegetation on the line. Mr. Kimball stated the porch is currently a three-season porch with standard interior windows and no heat but the floors and walls are insulated. They are looking to open up the interior wall. Mr. LaRoche confirmed the expansion is to make the appearance more esthetically pleasing. Chair Monziona confirmed the areas marked red on the plans would further encroach into the boundary setback and will be living space. Mr. Rich asked how close is the next home on the next property on the side of the encroachment. Mr. Kimball stated there is a house on the property and it was confirmed the next property is the campground. He stated he hasn't seen any other home close to the boundary. Mr. Rich stated that in doing this, no views would be obscured.

Chair Monziona opened the hearing to input from the public. None was indicated. Chair Monziona opened the hearing to input from anyone in opposition to the variance being granted. None was indicated. Chair Monziona closed the hearing to public input.

Mr. Rich noted there were no department concerns regarding this case.

Chair Monziona suggested they consider the case for the variance as though the additional space is going to be there, noting it's a small area of conversion to living space, which will improve the use and appearance of the home. Mr. Rich stated it is a small request in terms of expansion and sees that it helps Mr. St. Jean and doesn't have any impact on the community. He stated it won't obstruct any more than it currently is.

Discussion Case #Z20-04

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

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

Mr. Rich stated the request **is not** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district

within which it is proposed. He stated it is not going to be any more intrusive and is in the spirit of the ordinance in terms of health and safety going forward for the homeowner. Mr. Rich stated he doesn't see anything that would affect surrounding lots. The Board concurred.

Chair Monziona stated that by granting the variance, substantial justice **will be** done, and there is nothing about this expansion that will thwart the purpose of the ordinance to prohibit enclosing porches or expanding into setbacks. It is such a small amount he doesn't see that it has any impact on the zoning regulation. The Board agreed.

Mr. LaRochelle stated the values of surrounding properties **will not** diminish the values of surrounding properties. There are no abutters who are objecting and its simply making the front of the building more aesthetically appealing and won't be blocking any views of any kind. There is no evidence of the value of surrounding properties being diminished. The Board agreed.

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

- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;*
- ii. *The proposed use is a reasonable one.*

The Board concurred.

Mr. Rich made a motion to grant the request for a variance for Case #20-04 for the reasons previously discussed. Mr. Lee seconded the motion. Motion passed, 4-0-0.

Chair Monziona opened the hearing to public input for the request for Special Exception. None was indicated. Chair Monziona closed the public hearing.

Discussion – Case #Z20-03

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

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

Mr. LaRochelle stated the specific site **is** an appropriate location for the use. Mr. LaRochelle noted the use is not changing and it is enclosing the porch and widening to allow for easier access. The Board agreed.

Mr. Lee stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated it may increase the property value by improving the structure. The Board agreed.

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

Chair Monzione stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. The Board agreed.

Mr. LaRochelle stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. He stated none of that is changing, it currently exists and is being maintained. Chair Monzione stated no additional bedrooms are being added. The Board agreed.

Mr. Lee stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated none of that is being changed per the plan. The Board agreed.

Mr. Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. He stated this is the intent of the Master Plan to accommodate small changes especially in light of mobility issues for the homeowner. The Board agreed.

Mr. LaRochelle made a motion to approve the request for a Special Exception for Case #Z20-03. Mr. Rich seconded the motion. Motion passed, 4-0-0.

NEW APPLICATIONS

Case #Z20-05 Thomas Varney, P.E., Varney Engineering, Agent for Stephanie Purdy Nossiff, Trustee	167 East Side Drive Map 35 Lot 28	Special Exception Lakeshore Residential (LR) Zone
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A Special Exception is requested from **Article 300, Section 320 D**, Expansion of Nonconforming Use, to permit the construction of a deck on one of the four cottages, on the same lot, within the building envelope.

The Board reviewed the application for completeness. Chair Monzione stated he used to know Ms. Nossiff and her husband socially many years ago, but doesn't feel he will have any problem with being objective in this case at this time.

Mr. Lee made a motion to accept the application for Case #Z20-05 as complete. Mr. LaRochelle seconded the motion. Motion passed, 4-0-0.

Tom Varney, Varney Engineering, stated this property is located on Route 28A in an area of many cottages. He stated the application has owned the property since 2005 and would like to add a small deck to enjoy the lake view. Mr. Varney stated the deck and steps would be added to the existing cottage with a door added to provide access to the deck from the cottage with steps and railing; deck will have railings. A shoreline permit will be required along with a storm water management plan. Mr. Varney stated there are six cottages on the plans presented, showing the area where the deck would expand towards the lake and there is not currently a deck. He stated it is within the 30' setback of NH DES. He explained the setback from the road is encroaching on the cottages and multiple buildings are nonconforming. Mr. Varney explained the properties and shared septic

which are all prior to 1960 but in order to replace the septic, many cottages would need to be removed. He presented building diagrams showing the lot layouts. Mr. LaRochelle confirmed Ms. Nossiff owns all four buildings. Mr. Varney stated that is correct. Mr. LaRochelle asked if impervious materials would be used for the decking. Mr. Varney stated it will be wooden decking but he doesn't believe that will be a method for storm water management. He stated there will be crushed stone around the area of the dripedge. Chair Monziona confirmed there would be no roof or walls. Mr. Rich asked if the crawlspace would still be accessible. Mr. Varney replied it would. Mr. LaRochelle noted that it appears the cottage to the left of the cottage will have a visual impact by the deck although it will be open. Chair Monziona noted the criteria per the ordinance, the original purpose and use cannot be substantially changed but he doesn't think that is being done; it can't have a substantial effect on the neighborhood, nor can it make any existing conforming building nonconforming, which he doesn't believe this special exception would do either.

Chair Monziona stated no members of the public are present other than Mr. Varney to present input at this time and closed the Public Hearing. Mr. Varney noted a letter from an abutter was submitted but she does not have any concerns with the special exception.

Discussion – Case #Z20-05

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

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

Mr. Rich stated the specific site **is** an appropriate location for the use. He stated he sees nothing wrong with the plans present, cottages have been grandfathered-in and this will enhance the cottage. The Board agreed.

Chair Monziona stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated it may increase the property value by improving the structure. The Board agreed.

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

Mr. Lee stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. The Board agreed.

Mr. Rich stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. He stated this is an addition of a deck and none of that is changing; it currently exists and is being maintained. The Board agreed.

Chair Monziona stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated none of that is being changed per the plan. The Board agreed.

Mr. LaRochelle stated the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. He stated this is typical of lakeshore properties to have a deck. The Board agreed.

Mr. Rich made a motion to approve the request for a Special Exception for Case #Z20-05 with the condition that the NH DES Shoreline Permit is required and storm water measures will be implemented in the plan. Mr. Lee seconded the motion. Motion passed, 4-0-0.

Chair Monziona stated it appears Mr. Morgan will not be present for this meeting and asked if Mr. Varney would like to proceed with Case #Z20-02 with three board members, as Mr. LaRochelle will be recusing himself from hearing this case. Mr. Varney stated he would like to continue the case. Chair Monziona stated it would not count against the applicants' two permitted continuances.

Mr. Lee made a motion to continue Case #Z20-02 to the April 2, 2020 meeting. Mr. Rich seconded the motion. Motion passed, 4-0-0.

Chair Monziona noted that the applicant for cases #Z19-25 and Z19-26 is still not present. He noted the applicant was present multiple times for the public hearing, and for various reasons the hearings were not able to proceed; he suggested that due to that, they continue the cases to the next regularly scheduled meeting, April 2, 2020 although it will count against the applicants' two permitted continuances. The Board concurred.

Chair Monziona made a motion to continue Cases #Z19-25 and #Z19-26 to April 2, 2020. Mr. LaRochelle seconded the motion. Motion passed, 4-0-0.

OTHER BUSINESS

1. New Business:

Mr. Dever stated the Planning Department has setup a Facebook page in order to make information more available to the public about zoning amendments. He stated it's something the Planning Office will keep going with updates and "tips of the week" type information. Mr. Rich stated he thinks it's a great way to give an introduction to the Planning and Zoning Boards but he also suggested consulting the Town Attorney, and possibly implementing a disclaimer on the page, that the page is for informational purposes only. Mr. LaRochelle stated part of this being approved was due to the fact that less people are going to the Town website for information as well as less people coming into Town Hall; it is a good way to continue to get the information out there. Mr. Lee suggested ensuring there is social media guidelines and possible training for members of boards and employees.

Chair Monziona asked for explanation of the email received by the Zoning Board from the Town of Barnstead. Mr. Dever explained this was regarding an issue of regional impact, specifically a cell tower, near boundary lines of the towns.

Approval of Minutes

Meeting of January 2, 2020 – No edits were made. **Mr. LaRochelle made a motion to approve the minutes as written. Mr. Rich seconded the motion. Motion passed, 3-0-1.** Chair Monziona abstained.

Next Meeting

April 2, 2020, 7:00pm, Alton Town Hall

ADJOURN

Mr. Rich made a motion to adjourn. Mr. Lee seconded the motion. Motion passed, 4-0-0.

The meeting was adjourned at 7:42pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary