

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Thursday, April 1, 2021, at 6:00 P.M.
Alton Town Hall**

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

Members Present

Frank Rich, Chairman
Thomas Lee, Vice Chair
Paul Monziona, member
Paul LaRochelle, Selectman's Representative/clerk
Tim Morgan, member
Mike Hepworth, alternate member

Others Present

John Dever, III, Code Enforcement Officer
James Rines, Surveying Agent for Applicant – via Zoom
Jeff Goebel, applicant – via Zoom
Connie Matheson, applicant – via Zoom

CALL TO ORDER

Chair Rich called the meeting to order at 6:14pm. (See Attachment 1)

INTRODUCTION OF BOARD MEMBERS

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

APPOINTMENT OF ALTERNATES

Chair Rich stated a full board is present so no alternates are needed at this time.

STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the Zoning Board

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

NEW APPLICATIONS

Case #Z21-06 & Z21-07 James Rines, LLS, P.E., of White Mountain Surveying & Engineering, Inc., Agent for Jessie & Jeffrey Goebel, Owner	East Side Drive Map 35 Lot 19	Special Exception Lakeshore Residential (LR)
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A **Variance** is requested from **Article 400, Section 412 A.** of the Zoning Ordinance to permit a lot smaller than the minimum of 30,000 sq. ft. requirement in the Lakeshore Residential Zone.

A **Variance** is requested from **Article 400, Section 412 B.2** of the Zoning Ordinance to permit a lot that does not meet the minimum 75 ft. frontage requirement in the Lakeshore Residential Zone.

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

Mr. Morgan made a motion to accept the application for Case #Z21-06 and Z21-07 as complete. Mr. Monzione seconded the motion. Discussion: Mr. Monzione noted cases Z21-06, Z21- 07, Z21- 08, Z21- 09 and Z21- 10 seem to be depicted on the same plans and wants to confirm the information is applicable to all the cases. Mr. Rines confirmed the submission is applicable to all the requests for variances. Mr. Rich noted the properties for Z21-06 and 07 are the same property; cases Z21-08 and Z21-09 are the same property as well. Chair Rich confirmed they are also accepting the applications as complete for Z21- 08, Z21- 09 and Z21- 10 in this motion. It was confirmed Mr. Rines was appointed as the agent for all five variance requests. **Roll Call Vote: Mr. Monzione – aye; Mr. LaRochelle – aye; Mr. Morgan – aye; Chair Rich – aye; Mr. Morgan- aye. Motion passed, 5-0-0.**

Case #Z21-06

James Rines, LLS, P.E., of White Mountain Surveying & Engineering, Inc., Agent for

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Jessie & Jeffrey Goebel, Owner, gave an overview of the proposed plans and presented maps showing the property locations. He stated the property has 22.44 feet of road frontage; it is 2,339 square feet. They are proposing to add a piece along the side which would increase the road frontage by 3.76 feet and adding 225 square feet, both making the area and frontage less nonconforming. The setback on the front is currently in compliance. Mr. Rines stated the goal is to get the driveway fully on their property. It was confirmed these lots are on the opposite side of Route 28A from the lake. Chair Rich explained if one of the variances is denied, it will make it harder for the applicants to go forward with other variances; they are looking to make things less non-conforming due to the limiting size of the properties. Mr. Rines confirmed the intent is to improve the existing conditions. Mr. Lee confirmed the abutting parcels are owned by the Goebels. Mr. Rines confirmed the Goebels own three taxable lots.

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

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

Chair Rich closed public input.

Discussion – Case #Z21-06

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

Mr. Monzione stated granting the variance would not be contrary to the public interest. He stated it's a variance to permit the lot to be smaller than the required 30,000 square feet but this lot existed before zoning; the proposal will increase the square footage and allow the driveway to be completely on the property. The Board agreed.

Mr. Lee stated the request is in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated they are looking at there being less nonconforming area. The Board agreed.

Mr. Morgan stated that by granting the variance, substantial justice will be done. He stated the benefit to the applicant outweighs any detriment to the community as a whole. The Board agreed.

Chair Rich stated the values of surrounding properties will not be diminished. There has been no evidence presented that would indicate values would be diminished. Mr. Monzione stated it will benefit both properties by getting the driveway fully on one. The Board agreed.

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

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

Mr. LaRochelle stated the proposed use is reasonable. Mr. Monzione stated the purpose of the ordinance is in no way to be strictly applied, given how small these lots are. The Board agreed.

Mr. Morgan made a motion to grant the request for a Variance for Case #Z21-06. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z21-07

Mr. Rines stated the current frontage is 20.22 feet and they are proposing to add 3.76 feet to that to make it less non-conforming with 23.98 feet of frontage. Mr. Monzione asked if prior variance which was granted, essentially achieve the same outcome with additional footage. It was confirmed the variance would allow the lot line adjustment by the Planning Board.

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

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

Chair Rich closed public input.

Discussion – Case #Z21-07

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

Mr. LaRochelle stated granting the variance **would not** be contrary to the public interest. Mr. Morgan stated the intent is to have conforming lots and while this is non-conforming, it will be less non-conforming as a result of this request. The Board agreed.

Mr. Morgan stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated the applicant is moving towards more conformity with the ordinance. The Board agreed.

Chair Rich stated that by granting the variance, substantial justice **will be** done. He stated granting the variance will bring the lot into less non-conformity and will enhance the property. Mr. Monzione noted the abutting lot will not be made less non-conforming. The Board agreed.

Mr. Lee stated the values of surrounding properties **will not be** diminished. There has been no evidence presented that would indicate values would be diminished. The Board agreed.

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

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

Mr. Monzione stated this variance does not compromise the public purpose of the ordinance; the proposed use is reasonable as it remains residential. The Board agreed.

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Mr. Monzione made a motion to grant the request for a Variance for Case #Z21-07. Mr. Morgan seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z21-08 & Z21-09 James Rines, LLS, P.E., of White Mountain Surveying & Engineering, Inc., Agent for Constance Matheson & Dorothy Binswanger, Owner	East Side Drive Map 35 Lot 22A	Variance Lakeshore Residential (LR)
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A **Variance** is requested from **Article 300, Section 327 A.3** of the Zoning Ordinance to permit a shed within the 10 ft. property line set back.

A **Variance** is requested from **Article 400, Section 412 A** of the Zoning Ordinance to permit a lot smaller than the minimum of 30,000 sq. ft. in the Lakeshore Residential Zone.

James Rines, LLS, P.E., of White Mountain Surveying & Engineering, Inc., Agent for Constance Matheson & Dorothy Binswanger, Owner, stated the property for these cases are on the other side of the road from the previous lots, owned by the Matheson and Binswanger families. He stated the existing boundary line passes through the existing shed and the proposal is to adjust the line to be 0.5' off the shed and adding 198 square feet to the Matheson/Binswanger lots. The road frontage is not being altered and while the setback is still in violation, it will make it so the shed is wholly on the lot. Mr. Rines noted the shed is smaller than the maximum allowed.

Mr. Morgan asked the size of the lot. Mr. Rines stated lot 35-22A is 17,403 square feet currently.

Mr. LaRochelle asked what the proposed distance from the lot line is. Mr. Rines stated if the variance is approved and a lot line adjustment is granted from the Planning Board, it will be 0.5' off the shed, increasing to 1.5' towards the back of the lot. It is currently 2.9' onto the abutting Freese property.

Mr. Lee confirmed the variance request for Z21-08 is to permit a shed within 10' of the property line setback.

Mr. Monzione asked the total square footage of the shed. Mr. Rines replied it is about 3' less than the maximum allowed without a permit.

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

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

Chair Rich closed public input.

Discussion – Case #Z21-08

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

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Mr. Morgan stated granting the variance **would not** be contrary to the public interest. Mr. Morgan stated the intent is to have more conforming lots and while this is non-conforming, it will be less non-conforming as a result of this request. The Board agreed.

Chair Rich stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated it is taking the shed and giving them the opportunity to move it onto one property and will be less non-conforming. The Board agreed.

Mr. LaRochelle stated that by granting the variance, substantial justice **will be** done. He stated this will make the shed less non-conforming. The Board agreed.

Mr. Monziona stated the values of surrounding properties **will not be** diminished. There has been no evidence presented that would indicate values would be 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.*

Mr. Lee stated this variance does not compromise the public purpose of the ordinance and the proposed use is reasonable. The Board agreed.

Mr. Morgan made a motion to grant the request for a Variance for Case #Z21-08. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Monziona – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z21-09

Mr. Rines stated the current lawn area is 17,403 square feet; the proposal is to increase the lot to 17,601 square feet and it will be less non-conforming.

Mr. Monziona asked where the square footage is coming from and how will it affect the conformity of that lot. Mr. Rines stated lot 35-22, the existing Freese lot is currently 19,000 square feet, and will be giving up the portions depicted on the maps. He stated a boundary line adjustment will be requested from the Planning Board; the lot in the back will be added to the Freese lot, making 35-22 nearly double the minimum lot size. Mr. Morgan noted it would create less non-conformity for the garage on the lot.

Mr. Rines stated he initially submitted all these as one application but the Planning Department suggested breaking it up but needs to be looked as a whole with the shifting of the boundary lines and subsequent variance requests. He confirmed public postings were made and abutters were notified for the boundary line adjustments. Mr. Monziona agreed all these variances are needed, noting none of this will go further without the approval of the Planning Board.

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

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

Chair Rich closed public input.

Discussion – Case #Z21-09

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

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

Mr. Monzione stated the request is in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated these lots were created before zoning, the net effect of the request will make all the lots more usable without having an adverse impact on the Town. The Board agreed.

Mr. Lee stated that by granting the variance, substantial justice will be done. He stated this will make a non-conforming lot to be less non-conforming. Mr. Morgan stated the benefit to the applicant outweighs any detriment to the community. The Board agreed.

Mr. Morgan stated the values of surrounding properties will not be diminished. There has been no evidence presented that would indicate values would be diminished. The Board agreed.

Chair Rich stated that for the purposes of this subparagraph, “*unnecessary hardship*” means that, owing to special conditions of the property that distinguish it from other properties in the area:

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

Chair Rich stated the proposed use is reasonable. The Board agreed.

Mr. Morgan made a motion to grant the request for a Variance for Case #Z21-09. Mr. Monzione seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z21-10 James Rines, LLS, P.E., of White Mountain Surveying & Engineering, Inc., Agent for George E. Freese, III Revocable Trust, George E. Freese, Trustee	East Side Drive Map 35 Lot 22	Variance Lakeshore Residential (LR)
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A **Variance** is requested from **Article 300, Section 327 A.3** of the Zoning Ordinance to permit a garage within the 10 ft. property line set back in the Lakeshore Residential Zone.

Mr. Rines stated the variance they are requesting with this application is the setback for the garage.

The Board reviewed plans presented.

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

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

Chair Rich closed public input.

Discussion – Case #Z21-10

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

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

Chair Rich stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated these lots were created before zoning, the net effect of the request will make all the lots more usable without having an adverse impact on the Town. The Board agreed.

Mr. Morgan stated that by granting the variance, substantial justice **will be** done. He stated this will make a non-conforming lot to be less non-conforming. Mr. Morgan stated the benefit to the applicant outweighs any detriment to the community. The Board agreed.

Mr. LaRochelle stated the values of surrounding properties **will not be** diminished. There has been no evidence presented that would indicate values would be diminished. The Board agreed.

Mr. Monziona 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.*

Chair Rich stated the proposed use is reasonable. The Board agreed.

Mr. Monziona made a motion to grant the request for a Variance for Case #Z21-10 with the condition that the applicant obtain all the necessary approvals from the Alton Planning Board for the proposed lot line adjustments outlined in these applications. Mr. Morgan seconded the motion. Roll Call Vote: Mr. Monziona – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

OTHER BUSINESS

1. Previous Business:

None.

2. New Business:

Mr. Monzione stated he has attended other Zoning Board of Adjustment meetings recently and all individuals in attendance at the meeting, including by way of Zoom, are required under RSA 91:A, Right to Know Law, to identify themselves. He suggested they be sure to obtain names for the records when there is a Zoom element of the meeting. Mr. LaRochelle stated that to this point, none of the other Boards or committees have done so. It was agreed the Board would seek the opinion of the Town Administrator and Town Counsel.

2021 Elections

Mr. LaRochelle stated there is a new Board of Selectmen members; all the zoning amendments passed except one which was for the lumber yard.

Volunteers for ZAC

Mr. Lee stated he would be willing to serve as the ZBA representative; he asked if an alternate member of the ZBA can do this. Mr. Dever stated he will look into that and confirm.

3. Approval of Minutes: Meeting of March 4, 2021 –Mr. Morgan made a motion to postpone the review and approval of the minutes. Mr. Monzione seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

4. Correspondence:

None.

- a. **HB 111** – The Board discussed the proposed language for House Bill 111 regarding the state's sovereign immunity and how it could potentially affect municipalities. The Board asked Mr. Dever to get more information for further discussion.

Election of Officers for 2021 – 2022

Chair Rich made a motion to appoint Mr. Lee as chair of the Zoning Board of Adjustment. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Lee – abstain, Chair Rich – aye. Motion passed, 4-0-1.

Mr. LaRochelle made a motion to appoint Mr. Monzione as vice chair of the Zoning Board of Adjustment. Mr. Rich seconded the motion. Roll Call Vote: Mr. Monzione – abstain; Mr. Morgan – aye; Mr. LaRochelle – aye; Mr. Rich – aye, Chair Lee – aye. Motion passed, 4-0-1.

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Mr. LaRochelle made a motion to appoint Mr. Rich as the clerk of the Zoning Board of Adjustment. Mr. Monzione seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Morgan – aye; Mr. LaRochelle – aye; Chair Lee – aye, Mr. Rich – abstain. Motion passed, 4-0-1.

Appointment of Alternate

Mike Hepworth- Three (3) Year Term – it was noted Mr. Hepworth was just sworn in a couple months ago; Mr. Dever will check to see if that needs to be updated for a new three year term.

Update on Master Plan

Mr. LaRochelle stated there was meeting of the committee last night; the RFP was sent out with four response received. It was narrowed down to two companies for interviews. The next meeting will be April 15 and Mr. LaRochelle asked if Mr. Monzione would be interested in being part of that meeting.

ADJOURN

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

The meeting was adjourned at 8:45PM.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary

Attachment 1

PREAMBLE

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

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

a) Providing public access to the meeting by telephone:

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

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

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

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

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

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

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

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

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

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

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

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

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