

**TOWN OF ALTON
ALTON ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
MAY 1, 2008
Approved 6/5/08**

Members Present: Timothy Morgan, Chairman
Timothy Kinnon
Marcella Perry
David Schaeffner
Paul Monzione

Others Present: Sharon Penney, Town Planner
Stacey Ames, Planning Assistant
Krista Argiropolis, Recorder
Members of the Public

I. CALL TO ORDER

T. Morgan called the meeting to order at 7:02 PM.

II. ROLL CALL

All members were present.

T. Morgan announced there would be no public input on the Perrson application. He reported that the Board was presented with a large volume of information on that same afternoon and the Board needed time to review the information. He stated that any following meetings would be posted and public input would be accepted at that time.

III. APPOINTMENT OF ALTERNATES

No alternates were appointed.

IV. STATEMENT OF THE APPEAL PROCESS

T. Morgan reviewed the appeal process.

V. APPROVAL OF AGENDA

T. Kinnon requested to correct the agenda, as he was listed as the Chair.

MOTION:

M. Perry motioned the approve the agenda, as corrected, and P. Monzione seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

VI. NEW APPLICATIONS

a. CASE# Z08-10; MAP 40, LOT 4, SPECIAL EXCEPTION GARY & CAROL ANDERSON, 14 LIONEL DRIVE

S. Penny reported that due to a clerical error, this case needed to be presented a second time, per the counsel of the attorney. This was under the wrong article number. This is a special exception for a non-confirming use in a residential area. T. Morgan asked if Mrs. Anderson was the proper representative of this case and S. Ames responded that all property owners had signed the application.

MOTION:

P. Monziona motioned to accept the application for Case# Z08-10 and T. Morgan seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

Mrs. Anderson reported that they had spoken with the State. She spoke about some of the applications and waivers they will need to complete, such as a shoreline waiver. T. Morgan spoke about some of the questions in the past about the size of the structure and Mrs. Anderson responded that they were planning on increasing the footprint of the building. T. Kinnon reported that the septic plan was for 11/20

P. Monziona spoke about the criteria for the ZBA to make a determination on the variance and that they needed to establish the set backs and lot coverage so they could determine the non-conformity of the building. Mrs. Anderson stated that the footprint would not exceed 1,500 ft. S. Penney stated this would not come close to a set back or lot coverage because it was a huge lot.

M. Perry noted there were three structures on the lot and that they were tearing down one structure to rebuild it. M. Perry asked if the Andersons were making their home more non-conforming, then there was potential for the other neighboring property owners may be more non-conforming.

T. Morgan asked the size of the existing structure and Mrs. Anderson responded that the building was 20' x 22'. The building was the ticket shack for sea plane rides. T. Kinnon noted that the proposed building is 23' x 38'.

P. Monziona asked if the current building would be demolished and if the new building would be in the place. He noted there were three buildings that were grandfathered that were non-conforming. Mrs. Anderson responded that there was no way they could place a foundation under the building because of the condition of the building. She referred to the photographs in the applications.

T. Morgan opened the floor for public input.

Robin Nadeau, a neighbor of the Andersons, asked if the larger house and septic system that would be placed on the property, if that would mean that the topography and tree line would be altered. She stated she wasn't speaking against the application but that she wanted more information. She spoke about the features of the lot and felt it was wooded and private. Mrs. Anderson responded that the septic system would be on the opposite side of them. R. Nadeau had no other questions

M. Perry asked if the septic and wells on the lot met the setbacks for the other camps. Mrs. Anderson responded that there are no wells and two camps did not have septic. She reported they are requesting to put a well in.

D. Schaeffner asked about the placement of the septic and if it would be the same. T. Kinnon referred to the application, noting it was the same location.

P. Monziona asked if there would be plumbing in the new structure and Mrs. Anderson responded they would be putting in septic. She noted there was plumbing in the old structure but wasn't sure if it was a holding tank.

T. Kinnon reviewed the first item on the checklist and felt the application was complete. M. Perry felt the application wasn't complete. T. Morgan felt the application wasn't complete, especially the size and location of the proposed structure. D. Schaeffner felt that if they followed the proposed changes but if they followed the septic design it would be acceptable. He spoke about the position of the septic design, stating they were well within setbacks. P. Monziona stated a plan had been accepted but a recommendation had not been made. S. Penney responded that everything to her estimation was the same and they had a better idea of the square footage of the house. There was discussion about the setbacks on the property and the surrounding lots.

M. Perry felt that the three structures on one lot that were not applicable to the zoning and that they were allowing more non-conformity on the lot; she felt this wasn't a clear cut case. T. Kinnon felt the non-conformity was with the three structures on one lot but that the number of structures was not increasing.

P. Monziona confirmed that the old building was going to be torn down and replaced. He felt that once a building was eliminated that they would lose their grandfathered rights to have three buildings. T. Kinnon stated that they had a lot, if divided, would be sufficient for three structures but where they had a lot with three structures and all the abutters agreed, that they were not increasing the number of non-conforming structures. T. Morgan felt that they were increasing the non-conformity of this lot and that there could be a very crowded lot by the time they were done. P. Monziona read the grandfathering provision for the non-conformity and the provision about the discontinuing or abandoning of the grandfathering of the non-conformity. He noted the reference is that they would be replacing the use but this wasn't the case with the Anderson's request. M. Perry noted that the provision stated that they could not increase the non-conformity. T. Kinnon spoke about the use of the structure and felt this wasn't abandonment. There was discussion about the interpretation of abandonment.

M. Perry spoke about the use of the building, which is in the Lake Shore zone, the most restricted zone area. T. Morgan agreed with M. Perry. D. Schaeffner felt this was an appropriate location for the use and felt it was good they were updating, they were aware of the Shore Line Protection Act, and that it was good they were putting in something more modern and safer. P. Monziona felt they were expanding the use but this wasn't a new use and wouldn't have an increased or detrimental impact on the neighborhood. He spoke about setbacks and lot coverage and felt this specific site is appropriate for the use. T. Kinnon agreed the site is appropriate for the use.

T. Morgan, D. Schaeffner, P. Monziona, T. Kinnon, and M. Perry, all agreed that this request would not decrease property values; that there were no valid objections from opposing abutters; that there was no undue nuisance or serious hazard to pedestrian or vehicular traffic including the location and design of access ways; that there were adequate and appropriate facilities and

utilities provided to insure preparation operation of the proposed use or structure; and that the area is adequate for safe and sanitary sewage disposal and water supply.

D. Schaeffner stated the proposed structure is for the same use as was used in the past and it was consistent with the spirit of the ordinance. T. Kinnon agreed and spoke about the spirit of the ordinance. M. Perry agreed this was for the same use but that she felt it wasn't in the intent of the master plan. T. Morgan agreed with M. Perry.

MOTION:

T. Kinnon motioned to approve the Special Exception requested for Case#Z08-10 and D. Schaeffner seconded the motion. The motion passed by a vote of three “yes” votes and two “no” votes. (Yes – TK, TM, PM / No – MP, DS)

**b. CASE# Z08-11; MAP 5, LOT 72, SPECIAL EXCEPTION
JODY PERSSON, ROUTE 28**

S. Penney reported this is a new application to request a special exception, per Article 400; section 450 to allow a motor sport park. This property is located in a rural zone.

T. Morgan stated that the Board would need to review the application to see if the motor sport park could be accepted and if it was that they would need to address the criteria for the new application. He reported they had received quite a bit of new information materials that same day and they would need some time to review the new information that had just come in.

T. Morgan stated this new application would require a material change of status for a re-application or a change in circumstances for them to consider the new application. He reported this did not meet the time requirement for the re-application, per the courts. He stated he had reviewed the application submitted in November and the one submitted now, and felt there were no material differences.

T. Kinnon agreed and stated that the applicant was proposing a sound study as new evidence but felt the data from the studies should be submitted with the application. M. Perry agreed there were no material changes in the new application that she could see.

S. Penney noted there were changes to the hours/days of operation. T. Morgan didn't feel this was a significant change and those were not material changes. D. Schaeffner agreed with T. Morgan.

P. Monziona reported he had reviewed the past and current application and noted he had not sat to review the previous application. He stated the reason for the first denial needed to be addressed in the new application and he didn't see that addressed in the new application. He stated that in order for them to accept the current application, this was not present.

M. Perry stated the denial wasn't just about noise, but the wetlands, characteristics of the lot, etc., but there was nothing in the new application that addressed these issues. T. Kinnon stated it was the applicant's intent to provide them with some information or studies that would best be done under a conceptual with the Board.

S. Penney stated the discerning difference was that the applicant was proposing a site-specific study to be done with a professional but there was not a technical professional study done for the previous application. T. Kinnon stated he read there would be a site specific demonstration/study

done where there would be a report back from a laboratory but where this information was not disclosed with this application that he did not see any real difference with the application. T. Morgan felt the sound studies should have been submitted with this application. T. Morgan stated they didn't need to subject abutters to re-applications when there had not been substantial changes to the materials and even if they came back with sound they would not be able to accept an application if the aforementioned issues were not addressed.

Mr. Persson asked if it was available for him to speak and T. Morgan responded that it was not available at this time.

P. Monziona inquired if there was new information and a sound study in the new application that was not in the old application and S. Penney noted there was not.

MOTION:

M. Perry motioned to not accept the application for Case# Z08-11 and T. Morgan seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

VII. APPROVAL OF MINUTES

T. Morgan made a correction on page 7, (new business), change "loosing" to "losing". T. Kinnon clarified his comment about the application of fees from conceptual fees and application fees. There were a few typographical errors noted.

MOTION:

T. Morgan motioned to approve the minutes of April 3, 2008, as amended, and P. Monziona seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

T. Morgan noted in the minutes of March 6, 2008, that it was written that he had made a motion and seconded it. S. Ames stated she would check the tape.

MOTION:

T. Kinnon motioned to approve the minutes of March 6, 2008, as amended, and M. Perry seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

VIII. OLD BUSINESS

There was no old business.

IX. NEW BUSINESS

P. Monziona spoke about the Board making specific, conditional motions. He spoke about the approval of the first case presented that evening and felt the Board should look at the case more carefully when they were making their motions. S. Perry stated that if they had an approval with conditions, that she would be happy to bring those conditions forward to the Planning Board. P. Monziona felt it was something they should consider when making motions. T. Kinnon agreed.

M. Perry spoke about the meeting they had attended on Saturday. She stated that members voting on the criteria for a case had to vote consistently across the criteria. There needed to be at least

three members voting in the affirmative the same for all the five criteria. P. Monziona stated the vote to approve the application, at that point, is a formality, but the application is approved or denied by the vote for each criteria. T. Morgan spoke about getting all the criteria in the record. M. Perry felt that all the information had to be available to the Planning Board so the Zoning Board's decisions could be recorded. T. Kinnon felt this would help with any cases returning to the Zoning Board.

MOTION:

T. Morgan motioned to adopt the criteria form presented and T. Kinnon seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

T. Morgan spoke about all the documents received for the second case presented that evening. S. Penney felt a policy about scheduling the submission of documents was needed. M. Perry reported there were cases in the past where they had asked for documents not to be submitted that evening. S. Ames stated she would like to have the Board's packets ready two weeks prior to the meeting and couldn't include information submitted after the packets had been given to Board's members. P. Monziona spoke about concerns about the Board becoming too restrictive. M. Perry felt that 72 hours should be the deadline; S. Ames felt it should be one week prior to the meeting. T. Kinnon spoke about the timing of the Board members receiving information. S. Ames stated the problem was usually with re-applications. The Board discussed the hearing process.

T. Morgan asked S. Ames what she felt a good time was for a deadline for information. S. Ames responded that five working days would be good time. There was discussion about what information was appropriate to have in the Board members' packets, such as information that may influence a decision. S. Ames felt that any submissions given within five business days prior to the Zoning Board's meeting, might not be considered at the time of the meeting due to time constraints. The Board discussed how the public might be put on notice and how to word this notice. T. Kinnon felt the notice should also be given to abutters, as well as the applicants and attorneys. P. Monziona spoke about his concerns that the statement might deter abutters from attending meetings.

S. Penney confirmed the statement would read: "Additional materials submitted less than five working days before a meeting might not be considered by the ZBA due to time constraints."

X. CORRESPONDENCE

S. Ames reported that two people nominated as alternates for the Zoning Board had declined.

S. Ames distributed a letter from R. Bailey.

XI. ADJOURNMENT

MOTION:

P. Monziona motioned to adjourn and T. Morgan seconded the motion. The motion passed by unanimous vote. (TK, MP, TM, DS, PM)

The meeting adjourned at 8:40 PM.

Respectfully Submitted,

Krista Argiropolis
Recorder, Public Session