

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
May 2, 2013
Approved 6/6/13**

I. CALL TO ORDER

Paul Monzione called the meeting to order at 7:03 p.m.

II. INTRODUCTION OF PLANNING DEPARTMENT AND ZONING BOARD MEMBERS

Paul Monzione, Chair, introduced himself, the Planning Department Representative, and the members of the Zoning Board of Adjustment:

John Dever, Building Inspector and Code Enforcement Officer
Tim Morgan, Vice-Chair
Lou LaCourse, Member
Steve Miller, Member

III. APPOINTMENT OF ALTERNATES

No alternates were present at this meeting.

IV. STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the 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 has been or will be met.

V. APPROVAL OF THE AGENDA

The agenda shows Minutes: February 7, 2013 and March 7, 2013; that should be amended to March 7, 2013 and April 4, 2013.

S. Miller requested the addition of a discussion of whether this Board will use Roberts' Rules; this would be under New Business.

T. Morgan made a motion to approve the agenda as amended; L. LaCourse seconded the motion which passed with four votes in favor, none opposed, and no abstentions.

Citing the fact that all three cases on the agenda are on behalf of the Trustees of Brewster Academy, and because he has one daughter currently attending Brewster Academy and another who will be attending in the fall, P. Monzione recused, as he has done in the past when these cases have come forward. He went on to mention that his recusal would leave a three member Board and that in these circumstances, the Board has in the past entertained a continuance without penalty to the applicant, as all approvals would have to be unanimous by the three sitting members.

S. Miller stated that he does not see any direct benefit to the applicant due to any biased decision making that might be shown by P. Monzione; he does not feel it is necessary for him to step down. P. Monzione stuck with his decision to recues, as he would rather avoid any hint of impropriety or potential bias being raised.

T. Morgan, Vice-Chair, took over as Chair.

VI. CONTINUED APPLICATIONS

Case #Z13-3 New Durham Road	Special Exception Map 21 Lot 12-2	Trustees of Brewster Academy Lakeshore Residential District
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On behalf of the Trustees of Brewster Academy, Regina A. Nadeau, Esq. of Normandin, Cheney & O’Neil, PLLC, is proposing a physical expansion of a dwelling structure having a non-conforming use.

Attorney Nadeau came forward to present; she questioned what order the cases are scheduled in. The order of cases was discussed. The ruling on Case #Z13-3 had been continued pending the outcome of #Z13-2 and #Z13-6; if the ruling on those two is favorable to the applicant, #Z13-3 will go away. She asked that #Z13-3 be continued until the request for reconsideration, #Z13-2, has been determined.

S. Miller made a motion to address Case #Z13-2 first. L. LaCourse seconded the motion which passed with three votes in favor, none opposed, and no abstentions.

VII. NEW APPLICATIONS

Case #Z13-2 443 Roberts Cove Road	Special Exception Map 21 Lot 12-2	Trustees of Brewster Academy Lakeshore Residential District
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On behalf of the Trustees of Brewster Academy, Regina A. Nadeau, Esq. of Normandin, Cheney & O’Neil, PLLC, is requesting a rehearing of the Special Exception.

Attorney Hoover noted from the audience that the members had a memo from Attorney Sessler indicating that the hearing at this time is simply to determine whether the Board will grant a rehearing of the Special Exception, said hearing would be scheduled at a later meeting. The memo stated that abutter notification was not necessary to consider a motion to rehear as there is no public input involved in the decision to rehear. Board members requested a copy of the memo in question; copies were made and distributed. T. Morgan noted that according to Attorney Sessler’s memo, if a decision were made to rehear, the case would have to be renoticed and scheduled.

S. Miller made a motion to notice and rehear Case #Z13-2. L. LaCourse seconded the motion which passed with 3 votes in favor, none opposed, and no abstentions.

T. Morgan noted that the case would be renoticed and heard at the next meeting of this Board.

Attorney Nadeau stated that she was unaware this case had not been renoticed; given that fact and the fact that there is another case already continued, and that there is a short Board, she requested that her third case (#Z13-6) be continued as well.

Case #Z13-6 443 Roberts Cove Road	Special Exception Map 21 Lot 12-2	Trustees of Brewster Academy Lakeshore Residential District
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On behalf of the Trustees of Brewster Academy, Regina A. Nadeau, Esq. of Normandin, Cheney & O’Neil, PLLC, is requesting two variances from Article 320 Non-conforming Uses, Paragraph A:6 and from Article 320 Non-conforming Uses, Paragraph A:7. The proposal is a redevelopment of the 11.275 acre site from 3 year-round and four seasonal structures to 3 year-round and 2 seasonal structures, with no increase in number of bedrooms (but conversion of 3 seasonal bedrooms to 3 year-round bedrooms).

S. Miller made a motion to grant the continuance of Case #Z13-6 as well; L. LaCourse seconded the motion which passed with three votes in favor, none opposed, and no abstentions.

T. Morgan noted that because this is a short Board, this continuance would not count against the applicant as one of the allowed.

P. Monziona rejoined the Board. He clarified that all three of these cases would be heard on June 6, 2013, at 7:00 p.m.

Randy Walker of Walker and Varney, PC, Attorney for Brewster Academy working with Regina Nadeau, asked if the abutter notification could be waived, as the attorney for the only abutter, Attorney Arthur Hoover, was present at this meeting. Attorney Nadeau stated that she would be uncomfortable with that as she represents the buyer of this property; she went on to request some leeway in the scheduling of the next meeting.

S. Miller questioned why during the time between receipt of the memo from Attorney Sessler and this meeting, nothing was done to alleviate this situation; he suggested that a phone poll could have been done to determine whether the Board would entertain the rehearing and suggested that the Board may have been remiss in not doing so. Based on that, he felt that this Board should schedule an interim meeting to alleviate any further possible hardship to the applicant.

P. Monziona, though still recused, asked for clarification whether the applicant is requesting that all three of these cases should be heard at the interim meeting; Case #Z13-3 has already been continued to June 6, so #Z13-2 and #Z13-6 are the cases still in question. Attorney Nadeau stated that in the interest of efficiency, she would argue all three cases on the same night.

After some discussion concerning appropriate notice to abutters and public notice requirements, the Board agreed to an interim meeting which will allow ample time for renoticing and abutter notification.

S. Miller made a motion to schedule an interim meeting for the purpose of rehearing cases #Z13-2, and continuing Cases #Z13-3, and #Z13-6, said meeting to be held on Thursday, May 16, 2013 at 7:00 p.m. L. LaCourse seconded the motion which passed with three votes in favor, none opposed, and P. Monziona abstaining as recused.

VIII. OTHER BUSINESS

A. Previous Business: None

B. New Business:

S. Miller questioned Roberts Rules of Order pertaining to the issue of whether motions need to be made in the positive. Members discussed making motions to deny rather than making a motion to approve even when the case is going to be denied. P. Monziona stated that the case is in a better legal context if a motion to deny is made and passed rather than making a motion to approve and having it fail. Roberts Rules are followed, though not necessarily to the letter; this has always worked well. P. Monziona voiced that he sees a need to follow procedure particularly where Public Input is concerned; strict adherence to closing input and discontinuing discussion outside of Board deliberation is needed.

S. Miller asked if correspondence received could be scanned and sent to the members ahead of the meeting; he was referring to the memo from Attorney Sessler mentioned above. J. Dever explained that typically attorney opinions to the Board are not part of the public record if it is simply to answer a procedural question. J. Dever stated that he is happy to forward such correspondence to the members in the future. S. Miller noted that the memo had been cc'd to other counsel. P. Monziona spoke about Motions for Rehearing; the decision as to whether to grant a rehearing is not done with public input, and there are standards that should be met before the decision to grant a rehearing is made. He recalled that the reason would be a mistake on the part of the Board, or if there is new evidence in the case. The merits of the case are not heard during the Motion for Rehearing; the merits of the case are heard only if the Motion for Rehearing is granted. In this case, the applicant is not

requesting that the decision be reheard; they are requesting a rehearing of the condition concerning the right of way setback. J. Dever will supply the Board with a packet showing the right of way and the location of the proposed structure.

C. Minutes: March 7, 2013

T. Morgan made a motion to defer approval of the minutes to the next regular meeting on June 6, 2013. S. Miller seconded the motion which passed without opposition.

April 4, 2013

On Page 5 of 18, last paragraph, first line, the word “day” should be “say”.

On Page 16 of 18, fourth paragraph, sixth line, the word “guest” should be “guests”.

T. Morgan made a motion to approve the minutes of April 4, 2013, as amended. S. Miller seconded the motion which passed with four votes in favor, none opposed, and no abstentions.

D. Correspondence: Workshops concerning planning and zoning topics are being held at a meeting being held in May; this meeting will be paid for by the town for any member wishing to attend.

IX. ADJOURNMENT

T. Morgan made a motion to adjourn. L. LaCourse seconded the motion which passed without opposition.

The meeting adjourned at 7:50 p.m.

The next regular ZBA meeting will be held on June 6, 2013, at 7:00 p.m. An interim meeting has been scheduled for May 16, 2013 at 7:00 p.m. for the purpose of hearing cases as noted above.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session