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**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Thursday, May 4, 2023, at 6:00 P.M.
Alton Town Hall**

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MEMBERS PRESENT

Thomas Lee, Chair
Paul LaRochelle, Selectman's Representative
Mark Manning, Member
Frank Rich, Member

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OTHERS PRESENT

John Dever, Building Inspector
Jessica Call, Town Planner
Anthony Jones, Jones and Beach Engineers, representative for applicant
Tom Varney, Varney Engineering LLC
Keith Babb, applicant
David and Roberta Mank, resident
Dana Rhoades, resident
Ron ????, Merrymeeting Homeowners Association

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CALL TO ORDER

Chair Lee called the meeting to order at 6:03 PM.

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INTRODUCTION OF BOARD MEMBERS

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

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APPOINTMENT OF ALTERNATES

No alternates are present.

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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 that 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.

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APPROVAL OF AGENDA

The Board reviewed the agenda. Chair Lee asked if the applicants would be willing to change the order of the cases as one case will be more involved. No objections were indicated.

46 **Mr. LaRochelle motioned to approve the agenda as amended. Mr. Rich seconded the**
47 **motion. Motion passed 4-0-0.**

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49 **NEW APPLICATIONS**

Case #Z23-07 Jones & Beach Engineers, Agent for HVP Realty Trust, Joyce Paradise, Trustee	Map 43 Lot 11 279 Trask Side Road	Variance Lakeshore Residential (LR) Zone
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51 A **Variance** is requested from **Article 300, Section 327.A.2** of the Zoning Ordinance to permit a
52 teardown and rebuild of a garage 13' further back from the prior garage.

53
54 The Board reviewed the applications for completeness.

55
56 **Mr. Manning motioned to accept the application for Case #Z23-07 as complete. Mr.**
57 **LaRochelle seconded the motion. Motion passed 4-0-0.**

58
59 Chair Lee read the public notice into the record and opened the public hearing at 6:08 PM.

60
61 Anthony Jones, Jones and Beach Engineers, a representative for the applicant, stated the lot is an
62 existing lot of record with an old single-family dwelling on it; the applicant is looking to do a
63 complete teardown and rebuild of the garage and eventually the dwelling. A full set of design
64 plans were presented for review. Mr. Jones stated the application is only for the teardown and
65 rebuilding of the garage. He stated as a result of the boundary survey, which was done, they
66 found the garage is partially into a right-of-way which poses a public safety hazard and so they
67 are proposing to tear it down and the new garage would be set back 13 feet further from the lake.
68 He stated the proposal is not contrary to the public interest; the proposal has a net reduction in
69 total impervious coverage and improved stormwater management measures. The spirit of the
70 ordinance is observed as the redevelopment will be more conforming; 1574 square feet of
71 nonconforming square footage of the structure will be replaced by 296 square feet. Mr. Jones
72 stated substantial justice will be done; stormwater runoff will be controlled, and the
73 nonconforming structure is being made less nonconforming; the request will not diminish the
74 values of surrounding properties and will only serve to improve the values. Mr. Jones stated the
75 proposed use is reasonable as it will be a dwelling will be a single-family home accompanied by
76 the detached garage. He clarified that the house will; be replaced at some point but the existing
77 structure conforms to all setbacks.

78
79 Mr. Rich confirmed the proposal is to reduce the nonconformity of the property, which will
80 benefit the entire association; it will reduce the impervious coverage by about 278 square feet.
81 Mr. Jones stated he doesn't have architectural plans for the garage at this time. Mr. Rich stated
82 they want to ensure the height of the proposed structure won't restrict any visibility of properties
83 on the other side of Trask Road. Mr. Jones stated the owners own the adjacent lot which contains
84 their septic system; he stated it will be conforming and explained it will sit down lower on the
85 hill and doesn't believe it will impact any view from across the road. He stated there will not be a
86 second floor in the garage. Mr. Jones stated the existing building height is about 16 feet and there
87 are no plans to put in an accessory dwelling above the garage. He stated he is reserved about

88 agreeing to any restriction for his client.

89
90 Mr. Manning asked if a driveway permit will be required. Mr. Dever stated the driveway is
91 existing and there won't be changes however a right-of-way permit will be required to obtain the
92 building permit. Mr. Manning asked about moving the garage further back to make it more
93 conforming. Mr. Jones stated there were too many constraints to work with and although it is
94 larger than the existing structure, it is more conforming. He stated the alternative is to rebuild the
95 existing footprint, but it would be less conforming than the proposal. Mr. Dever noted the plans
96 indicate the house will also be pulled back behind the 50 foot setback. Mr. Jones noted the two
97 driveway entrances will also be reduced to one; the setback is being increased and the total
98 impervious coverage is being reduced. It will be about 8 feet between the garage and the home;
99 porous pavers will be used for the driveway. A NH DES Shoreline Permit will be required. Mr.
100 Jones stated a lot of sidewalks will be removed and other impervious surfaces will be removed
101 within the 50 foot shoreline buffer; the septic tank will be relocated between the house and the
102 driveway. Mr. Jones stated the side setback will remain 10.5 feet. He stated the State approvals
103 are still pending for the house portion; the septic system has been approved by DES. Mr. Rich
104 noted the garage would be conforming if it was attached to the home. Mr. Jones stated he
105 discussed that option with the applicant, but this is his preferred proposal.

106
107 Chair Lee opened the hearing to input from the public in favor of the application. None was
108 indicated.

109
110 Chair Lee opened the hearing to input from the public in opposition of the application. None was
111 indicated.

112
113 Chair Lee closed public input.

114 ***Discussion – Case #Z23-07***

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

116 Chair Lee stated granting the variance ***would not*** be contrary to the public interest. He stated that
117 based upon the plans, the property will become more conforming; no side setbacks are changed,
118 and it is better suited for the road to go from two driveways to a single driveway. The Board
119 agreed.

120 Mr. LaRochelle stated the request ***is*** in harmony with the spirit of the ordinance and the intent of
121 the Master Plan to maintain the health, safety and character of the direct district within which it
122 is proposed. He stated this will be an improvement for public safety, bringing the building back
123 from the right-of-way; he stated it will be an improvement to the property and life safety. The
124 Board agreed.

125 Mr. Manning stated that by granting the variance, substantial justice ***will be*** done. He stated the
126 spirit of the ordinance is to improve the property and this proposal will do that. Mr. Rich stated
127 there is no benefit to the public that would outweigh the hardship to the applicant. The Board
128 agreed.

129 Mr. Rich stated the values of surrounding properties ***will not be*** diminished. He stated if
130 anything, the values will be enhanced and with the garage being moved back from the roadside,

131 it will improve the value of the property and surrounding properties. The Board agreed.

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

134 i. No fair and substantial relationship exists between the general public purposes of
135 the ordinance provision and the specific application of that provision to the
136 property;

137 ii. The proposed use is a reasonable one.

138 Chair Lee stated the proposed use is reasonable. Mr. Rich stated the hardship to the family
139 outweighs public interest in this case. The Board agreed.

140
141 **Mr. Manning made a motion to grant the request for a Variance for Case #Z23-07. Mr.**
142 **LaRochelle seconded the motion. Motion passed, 4-0-0.**

143

Case #Z23-06 Andrew Sullivan, Esq., Agent for Green Oaks Realty, LLC, Owner	Map 5 Lot 72 398 Suncook Valley Road	Special Exception Rural (RU) Zone
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144 A **Special Exception** is requested from **Article 400, Section 401.D. 17** of the Zoning Ordinance
145 to permit a Contractor yard on same site as gravel pit.

146

147 The Board reviewed the applications for completeness. Mr. Rich and Mr. LaRochelle noted there
148 are no abutters’ list in their packets. Mr. Dever confirmed there is an abutters’ list in the file and
149 he is confident all abutters were notified.

150

151 **Mr. Rich motioned to accept the application for Case #Z23-06 as complete. Mr. LaRochelle**
152 **seconded the motion. Motion passed 4-0-0.**

153

154 Chair Lee read the public notice into the record and opened the public hearing at 6:36 PM.

155

156 Tom Varney, Varney Engineering LLC, representing the applicant, stated he is also here in Mr.
157 Sullivan’s absence and stated he drew up the plans. Mr. Varney stated Coffin Brook Gravel is
158 located on Route 28 South; it has been there since the 1980s and there is a long driveway into the
159 pit. He stated the entrance is approved by the State of New Hampshire on Route 28 and it has
160 been an active pit for many years. Mr. Varney stated Mr. Babb used to bring in materials from
161 his pit in Ossipee and sell sand and crushed gravel, which is not otherwise available in the local
162 area.

163

164 Chair Lee asked Mr. Babb if he is comfortable continuing with Mr. Sullivan’s absence and stated
165 he can continue the public hearing to a later date. Mr. Babb stated he is comfortable moving
166 forward with the hearing; he stated it is an existing pit and he has been importing sand for nearly
167 a decade. Mr. Babb stated the writeup by Mr. Sullivan is based on the information he provided.

168

169 Mr. Varney stated the contractors’ yard is for crushed gravel, sand, loam, and mulch; he stated
170 there is someone at the pit during the day to operate a loader for the dump trucks coming in; he
171 stated there are no pedestrians or other cars. He stated contractors come and go; he stated it is a

172 service that is needed in the area. Mr. Varney stated an excavation permit was submitted a few
173 years ago. He stated after this process was done, they were informed a Special Exception was
174 needed from the Zoning Board.

175
176 Mr. Varney presented photos showing previous stockpiles in the existing pit, noting there are no
177 stockpiles at this time.

178
179 Mr. Babb stated most of what is covered in the Planning Board regulations for contractors'
180 yards, is covered and the only thing they are dealing with is the importation of sand which they
181 bring in to provide mixing of special construction aggregates to DOT specs and selling that to
182 local contractors for septic systems. He stated the aggregate production and pit operations are
183 monitored under the Pit Permit by 155E regulations. He stated the lot is 42 acres and the nearest
184 house is 1500 feet away; there are no visual infractions; no equipment is maintained on the site.
185 He stated there is a 24-foot storage box on the property and one loader stays on the site. He
186 explained the crushers are brought in when needed. Mr. Babb explained they crush up to five
187 times per year but generally twice. He stated the details of the hours of operation are covered in
188 the Site Plan for the Planning Board.

189
190 Mr. Rich asked about the status of the Cease and Desist Order with Mr. Babb. Mr. Babb stated
191 the requirements have been complied with and the pit has been closed for almost two years; he
192 stated they just completed the AOT permit and expects to have everything complete for the May
193 16 public hearing; bonds have been agreed on. It was confirmed there is no septic or wastewater
194 on site.

195
196 Mr. Rich asked what the pond is used for. Mr. Babb stated it is a man-made pond, but it is not
197 used for anything now. It was confirmed there are no stockpiles on the site now. Mr. Babb stated
198 they plan to have 500 to 1,000 yards of sand in stock; the rest of the stockpiles will vary. He
199 explained that any other stockpiles are related to the operation of the pit and aggregate
200 production.

201
202 Mr. Rich asked about the note which indicates "slope under construction." Mr. Babb explained
203 that pertains to the restoration of the north property boundary; he stated he doesn't do
204 construction work and can't bond it but one of the conditional approvals of the Planning Board is
205 that the restoration has to be done before a permit is issued. He expects to begin construction
206 after the May 16 hearing. Ms. Call clarified the permit won't be issued until the slope is restored
207 100%.

208
209 Mr. Babb stated he has talked with abutter Peter Farrell and he doesn't have any issues; no other
210 abutters have indicated concerns.

211
212 Chair Lee stated the case was sent to Town Counsel for input and in regard to the sale of
213 products from on-site/off-site, and the response indicated that any approvals should include a
214 specific condition that materials are limited to materials generated off-site only and sale of onsite
215 materials should not occur until the excavation permit is issued and the Cease and Desist is
216 rescinded. Mr. Babb confirmed he has no issue with that.

217

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

220
221 Chair Lee opened the hearing to input from the public in opposition of the application.

222
223 Dana Rhoades, Vice Chair for the Conservation Commission, stated most of the issues by the
224 Commission, have been discussed and he read into the record the document prepared by the
225 Commission members.

226
227 David and Roberta Mank, abutters, submitted written opposition to the request for a Special
228 Exception and this was entered into the record.

229
230 Ron ????, President of the MerryMeeting Homeowners Association, stated the association is not
231 in opposition to the proposal but they are concerned about the increase in traffic; he asked if this
232 will be a retail or commercial operation.

233
234 Mr. Babb stated at this time, there is no approved restoration plan as the Planning Board has not
235 voted to approve it; he stated his hands are tied to do any restoration work until approval is
236 granted. He stated they did 70% of the restoration without being prompted or forced but stopped
237 because there wasn't a plan and he wasn't sure if it was going to be acceptable. Mr. Babb
238 explained the approval is needed before he can finish the restoration and the restoration has to be
239 complete before a pit permit is issued.

240
241 Mr. Babb stated he understands the concerns of the Conservation Commission but that is where
242 this all started because they wouldn't grant approval for the restoration plan initially. He stated
243 sand and aggregate has been on the site for the past ten years; there is no change in use but they
244 are going through the process to get rid of the Cease and Desist Order. Mr. Varney stated the
245 driveway permit was updated to reflect what has been going on there in recent years.

246
247 Chair Lee closed public input.

248 Mr. Rich asked for clarification on the intended use of the pit. Mr. Dever explained a
249 contractors' yard operates by bringing off-site materials and Mr. Babb can do so; however, no
250 work except the restoration of the slope can be done and then an excavation permit can be issued
251 and then that material can be sold. Mr. Dever stated if Mr. Babb does not restore the slope, no
252 excavation permit will be issued but he can still operate as a contractors' yard with materials
253 from off-site. The Board agreed the approval should include a condition that the slope be
254 restored.

255
256 ***Discussion – Case #Z23-06***

257
258 *The Board must find that all the following conditions are met in order to grant the Special*
259 *Exception:*

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

262 Mr. LaRochelle stated the specific site **is** an appropriate location for the use. He stated the
263 property has no buildings, no electricity or sewage and its an appropriate location for a contractor
264 yard; he stated it's a place that has had traffic coming in and out of, before. The Board agreed.

265 Mr. Manning stated that actual evidence **is not** found that the property values in the district will
266 be reduced due to incompatible land uses. He stated no evidence was submitted to indicate that
267 property values will be reduced. The Board agreed.

268 Mr. Rich stated there **is not** valid objection from abutters based on demonstrable fact. He stated
269 there were objections indicated by abutters but none that would invalidate the special exception.
270 Mr. Manning stated the objections noted by abutters will be addressed by conditions of approval.
271 The Board agreed.

272 Chair Lee stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic,
273 including the location and design of accessways and off-street parking. He stated there is no
274 parking at the facility; it is only trucks coming and going; NH DOT approval has been received
275 for vehicular traffic. The Board agreed.

276 Mr. LaRochelle stated adequate and appropriate facilities and utilities **will** be provided to ensure
277 the proper operation of the proposed use or structure. He stated there are no structures; it is a
278 contractor yard with no facilities. The Board agreed.

279 Mr. Manning stated there **is** adequate area for safe and sanitary sewage disposal and water supply
280 as there is not going to be any water or sewer on the site; however, there will be port-o-potties
281 for safe sewage disposal. The Board agreed.

282 Mr. Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and
283 the intent of the Master Plan. He stated it is an existing business that has been there for some
284 time; the difficulties are being handled with the appropriate officials and the applicant; the intent
285 is for small businesses to be in the community. The Board agreed.

286 **Mr. LaRochelle made a motion to grant the request for a Special Exception for Case #Z23-**
287 **06, for a Contractor's Yard, with the condition that the applicant will not commence**
288 **operations for the contractor's yard until the slope restoration work is 100% complete; the**
289 **sale of materials is limited to materials generated off-site only and sale of on-site materials**
290 **shall not occur until the Excavation Permit is issued and the Cease and Desist is rescinded.**

291 **Mr. Rich seconded the motion. Motion passed, 4-0-0.**

292
293 **OTHER BUSINESS**

294 ***1. Previous Business: Discussion of election results – None.***

295 ***2. New Business:***

296 ***a. Appointment for ZAC committee – two members needed***

297 Mr. Rich stated he would be willing to serve on ZAC.

298

299 ***3. Approval of Minutes:***

300 ***Meeting of April 6, 2023 – Edits were made. Mr. LaRochelle motioned to approve the***
301 ***minutes as amended. Mr. Manning seconded the motion. Motion passed, 4-0-0.***

302

303 ***4. Correspondence:***

304
305 Mr. Dever stated they have five candidates for the Building Inspector position and interviews will
306 begin this week.

307
308 **Mr. Rich motioned to adjourn. Mr. LaRochelle seconded the motion. Motion passed 4-0-0.**

309
310 The meeting was adjourned at 7:52 PM.

311
312 Respectfully Submitted,

313 *Jennifer Riel*

314 Jennifer Riel, Recording Secretary

APPROVED