

Members Present: Marcella Perry; Tim Morgan; Time Kinnon; Angela Bystrack, and Paul Monzione

Others Present: Town Planner – Kathy Menici; and others as identified below.

**Call to order:** Chair, Marcella Perry called the meeting to order at 7:00 p.m.

**Statement of Appeal Process.**

Chair, Marcella Perry read the Statement of Appeal Process.

**Approval of Agenda:** M. Perry – I had asked Kathy to prepare an amended agenda. I had moved the cases that were already in the process up and new cases be put at the end of the evening. I thought it was fair because we have had several people had been to a few meetings. **Motion made by M. Perry to accept the amended agenda, seconded by T. Morgan. Motion passed with all in favor.**

T. Morgan - The first case listed on the agenda is the June Rich Revocable Trust. Last time this came up for hearing I recused myself. Unfortunately if I do that again we will find ourselves in a situation where there are not enough board members to give the applicant a proper hearing, so I thought I would explain as to why I recused myself last time. As an attorney I have an absolute ethical obligation to avoid even the appearance of a conflict. The way that a conflict might appear in this case is Beckwith Builder, who is the builder for the Rich property, is a client of the law firm for which I work. However, I do not have anything to do with the case. I do not deal with the Beckwith people in any way. I only know that it is a case in our office because it is on the calendar and its nature. That is the only contact that I have with the case. So it would be my position tonight to sit and hear the case unless anyone objects.

M. Perry – I would like to appoint P. Monzione to sit on the board. P. Monzione also has something to say since he works for the same law firm as Mr. Morgan.

P. Monzione – We represent Beckwith Builders in a matter that is completely unrelated to any matter that is before the board this evening. That matter has absolutely nothing to do with the issues being presented. Beckwith Builder is our client. Beckwith Builders is not an applicant this evening for any purpose, they are simply the builder of the residence that belongs to the Rich Trust and it is the trust that is the applicant. I have no connection what so ever with the Rich Trust, nor with the subject property. I have no connect what so ever with the issues that are being presented here. However, because Beckwith Builders is one of our client's, I want to make that full disclosure. Given the number of members this evening, it would be my intention to sit on the board for this matter unless there are any objections.

M. Perry - When I was looking over the application for the June Rich Trust, the application for appeal, the Board of Adjustments, Town of Alton, the names of the applicant has Beckwith Builders on that form. They are not the applicants.

P. Monzione – They are not. I don't know why their name would appear as such. My understanding

of course is the property owner and that is not Beckwith Builders. They are the builder and I think they are providing services to the property owner by way of engineering services.

K. Menici – It is listed that way in the report because that is how the application was filed. Beckwith did file the application on behalf of the property owner.

M. Perry – Do the people for the trust want the case heard under these circumstances? The circumstances are what these two gentlemen explained to you and the audience that they work for a law firm that has Beckwith Builders as a client. Also, if we have 4 board members tonight and you would have the same situation with board members as in the past. Either we here your case tonight or you can request that the case be continued.

J. Bartlett – Is the application an approved application or are we here on a technicality concerning the application. Beckwith Builders submitted the application on behalf of the Rich family.

M. Perry – As far as the board is concerned they are listed as the applicant.

T. Morgan –Is it possible to amend that at this point?

M. Perry – I don't know.

K. Menici – I think the bigger concern about this issue would not be with the applicant or the property owner but the abutters.

M. Perry – Possibly, but this is a document that the board has to go on.

K. Menici – When we do the agenda and public notice it is based on the property owner not the applicant. Typically the applicant is an agent who is working on behalf of the owner.

T. Kinnon – I think we should hear the case at this point and if there are any objections from the abutters or anybody than after hearing the case and having public input and closing public input to deliberations, if there are any objections we could seek legal counsel on the matter. At least this way the applicant would have the opportunity to present their case tonight.

M. Perry – I agree, but Mr. Beckwith is a client of M. Monziona.

K. Menici – The board could amend the agenda and take this one up later in the evening in hopes that board member Bystrack is able to rejoin the board.

J. Bartlett – This could have been discussed three times ago that the application was incorrect.

M. Perry – I didn't realize it would be an issue until Mr. Monziona was on the board for the first time last night, so the conflict wasn't there before that time. I am trying to work with you. The only other thing to do is there are three other board members here and if you would like just for three of us to hear this case, you have that option also.

T. Kinnon – Are you asking Mr. Monziona to recuse himself?

M. Perry – I am asking them if this is an issue and would like three of the board members to hear the case.

J. Bartlett – We will leave it up to the board.

T. Kinnon – I feel that P. Monziona should stay on the board.

P. Monziona – My position is that in order to give a full and fair opportunity to the applicant regardless of the name on the application, if any member of the public had any objection to my sitting on the board and hearing this I will gladly recuse myself and step down. If the members of the public are satisfied that I can stay and if it would make a difference and allow this process to continue than I would be willing to stay.

M. Perry – Mr. Rich has said he will have the case heard either way. However if there is no objection to anyone affiliated with this than we can continue will all four members.

**Case Z06-05**

**Map 18 Lot 39-8**

**Special Exception  
38 Tranquility Lane**

**June A. Rich Rev. Trust**

Continued from April 6, 2006 meeting. The applicant is seeking a special exception to allow a portion of the cupola and chimney to exceed to 35' maximum height and the special exception is being requested from Article 300 Section 328 – Height Restrictions of the Town of Alton Zoning Ordinance.

M. Perry – Is there any question from the board on waivers?

**Motion made by T. Kinnon to accept Case #Z06-05 June A. Rich Revocable Trust, Special Exception as complete, seconded by T. Morgan. Motion passed with all in favor.**

Frank Rich - I am the trustee, my wife June Rich is also here, Jim Bartlett – Architect for the building, and Peter and John DeJager – abutters, and we also have Ben Long – Civil Engineer. We are requesting a special exception to put this cupola on the top of the home by the plan you have before you. It is ~4' deepX6' wide. The full height of the cupola from the ridgeline that exists which is about 32' from the mean of the total property is ~7'6" but it ~5' higher than the 35' restriction. We are also requesting that the cupola be placed in the middle of the home to allow the home to blend in with the landscaping and the terrain of the property. We are ~110' from the water line and we have done our best with this home to minimize and mitigate the view restrictions from our abutters on both side and from our neighbors that live above us. We have met with all of the neighbors concerning this for their input and both Mr. DeJager's had no objections. The cupola would be built as it sits on the plans and there wouldn't be any weathervane. We are going to have some dim lighting. The chimneys will only go up as high as the code demands us to. The glow of light will be dim and turned off at bedtime or when we are away.

T. Morgan – Could you give us an estimate of the chimney heights?

J. Bartlett – The chimney will about 20' above the ridgeline which is the minimum required by code. That will put it at a height of 37'8" above the mean grade line.

M. Perry – I drove by to see how it would impact the neighbors. The house sits down.

J. Bartlett – We have tried to keep the rooflines consistent with the neighbors. The only difference is that the DeJager's don't have cupola on their homes.

F. Rich –We did drop the driveway down and we did go down as far as we could. We did reduce the slope from the main house. We have done all we can to reduce the structure and on the cupola we are using the smallest awnings that are available. We tried to scale everything as low as possible.

M. Perry – I would like to open this to the public.

John DeJager – I am an abutter. I would like to encourage the board to grant this special exception. I feel that Mr. Rich has been very cooperative and has been very accommodation in terms of any concerns that we have had. I hope that the board would recommend this.

M. Perry – Anyone else wishing to speak for or against?

Peter DeJager, Sr. – My daughter and her husband own the property across the street and they are more affected than anyone. We did meet with Mr. Rich and he is doing everything we required and has been very cooperative. The chimneys were the big thing. We have no problem.

M. Perry – We have reviewed the application for appeal and the plans for the cupola and two chimneys', which exceed 35' in height from the indicated, mean grade and have no objections and that is a letter from Douglas McGregor from 24 Tranquility Lane.

M. Perry –If there is no further comments the board will go into deliberations. We will take a break and return in a few moments.

M. Perry –We are back in session.

**T. Morgan – A plat has been accepted by the Planner in accordance with Alton Zoning Ordinance Section 420 b. and a recommendation has been made. In addition to the recommendations both the Fire Chief and the Building Code Officer have commented with no comment.**

**M. Perry - I agree and I think the have done a very good presentation and they have presented all of the information with the case.**

**T. Kinnon - I also agree, the plat and the drawings that we have been presented with are very detailed and well done.**

**P. Monziona – I agree**

**M. Perry – The specific site is an appropriate location for this use. It is along the waterfront and the cupola does fit into the ambiance of the neighborhood and I think it is appropriate.**

**T. Kinnon – I agree. The lot is of sufficient size.**

**P. Monziona – Given the abutters descriptions I would agree that it is appropriate for the location.**

**T. Kinnon – Factual evidence is not found that the property values in the district will be reduced due to incompatible uses. The use that they are proposing is appropriate for the neighborhood. It is a residence in a residential neighborhood.**

**P. Monziona – I agree, given the description of the building and how it blends in and is compatible with the other homes.**

**T. Morgan – I agree**

**M. Perry – I agree**

**T. Morgan – There is no valid objection from abutters based on demonstrable fact. There was no objection from abutters at all.**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P. Monziona – I agree**

**M. Perry – 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. I don't think it is relevant for what they are asking for.**

**T. Kinnon – I agree**

**P. Monziona – I agree**

**T. Morgan – I agree**

**T. Kinnon – Adequate and appropriate facilities and utilities will be provided to ensure proper operation of the proposed use or structure. The only thing the cupola will have is a light and that will be adequately provided for.**

**P. Monziona – I agree**

**T. Morgan – I agree**

**M. Perry – I agree**

**P. Monziona – There is adequate are for safe and sanitary sewage disposal and water supply. I don't think this is applicable to the cupola.**

**T. Morgan – I agree**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P. Monziona – The proposed use or structure is consistent with the spirit of this ordinance and intent of the Master Plan. Given the slight variances for the extended height and given the blending in of the roofline, I think that this proposed structure is within the spirit of the ordinance and the intent of the Master Plan.**

T. Kinnon – I agree

M. Perry – I agree I think it is within the spirit of the Master Plan

T. Morgan – I agree it is within the letter of the law Section 328c addresses it specifically. I don't think it is a problem.

**Motion made by T. Morgan to approve Special Exception Case #Z06-05 June A. Rich Revocable Trust, seconded by T. Kinnon. Motion passed with all in favor.**

**Case Z06-08**

**Map 60 Lot 11**

**Variance**

**David Herrick**

**172 Minge Cove Road**

Continued from the April 6, 2006 meeting. The variance is being requested to allow the construction of a porch within the setback. Variance being requested from Article 300 Section 327a.2 – Setback, which requires buildings 30' back from the shoreline. The applicant wishes to build within the setback.

M. Perry – The case was accepted so Mr. Varney if you would like to present.

Tom Varney – We proposed to tear down an existing cottage on Minge Cove Road and build a new cottage. The one that is there is over 100 years old and we are proposing to replace it with a new log home. The porch that is in the setback we would keep and maintain. The corner of the new house and the corner of the old house are 3'X5' triangular shape that is in the shore land zone. We are asking for a waiver for that and to tear the house down and rebuild it in that 3'X5' triangle. The issue with the porch is something that they want to maintain. They will leave the porch as is.

M. Perry – What you are asking the variance for is just the small section of the house.

T. Varney – Yes

David Herrick – The property has been in my family for 110 years. My grandfather acquired the property and in 1896 he built a cabin. The significance of the front porch was a very important part of the house. The porch is a focal point of the whole history, memory, and tradition of the sandbar. We are trying to retain as much of the old sandbar as we can. That is why that porch and that location is so important. I am looking to repair and maintain something that has been there for 100 years. It is not something that is containing the water or the soil. There has been no objection from any of the abutters. It is just a 200 sq. ft. porch that we want to maintain.

M. Perry – Does the board have any questions?

P. Monziona – It is just a 5 sq. ft. area that would extend into the 30' setback area.

M. Perry – It does already with the present building and that is what is attached to the porch.

T. Morgan – Can you tell us what the footprint is in square footage for the building and is the proposed building a 2-story building like the existing structure? All of the existing structure will be removed except the existing porch.

T. Varney – It is 1350 sq. ft. that is the complete new footprint quoting the existing structure. The new one will be a more. It is a lot bigger than the old camp.

T. Kinnon – We have 215 sq. ft within the setback. You are only seeking the variance for 15 sq. ft.?

M. Perry – I will open this up to the public. Seeing none it will close the public and go into deliberations.

M. Perry - I think the Case #Z06-08, we have heard all of the information and it has progressed from reconstruction to taking the whole camp down and then the concern of being in compliance with the setbacks and regulations and then the applicants desire to maintain the porch as it is. The only difference for the variance is the 15 sq. ft.

**T. Morgan – I think the application is made under the grandfathering statute and the grandfathering arises only from the retention of the porch. The variance will be contrary to the public interest.**

**M. Perry – I disagree, I don't feel it is. The building has been there along time. The porch they are maintaining so the house is attached to the porch and I don't feel it is against the public interest. I think a lot of the property in that same area, are along the waterfront.**

**T. Kinnon – I feel the variance will not be contrary to the public interest, mainly because the way that the Zoning Ordinance is written, repair of a non-conforming structure is allowed and what they have is 207.5 sq. ft. of non-conforming structure and they want to repair it.**

**P. Monziona – I feel that the variance will not be contrary to the public interest.**

**M. Perry – The request is in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, and character of the district within which it is proposed. I do feel that it is in harmony with the spirit of the ordinance. It is a very minimal impact that they are proposing.**

**T. Kinnon – I agree that the request is in harmony with the spirit of the Zoning Ordinance as it does allow repairs of non-conforming structures.**

**P. Monziona – I agree that the request is in harmony with the spirit of the Zoning Ordinance.**

**T. Morgan – I disagree, I don't think the request is not in harmony with the spirit of the Zoning Ordinance. I think this is something more than a repair.**

**T. Kinnon – By granting the variance, substantial justice will be done. Repairs of non-conforming structures are allowed.**

**P. Monziona – I agree by granting the variance substantial justice will be done, I am not focused on the rest of the structure how it may change or not change.**

**T. Morgan – I disagree that substantial justice will be done for the reasons I previously stated.**

**M. Perry – I think by granting the variance substantial justice will be done. I think because of the degree of variance they are asking for is minimal and the new structure doesn't enter into this. I think substantial justice should be granted.**

**P. Monziona – The request will not diminish the value of the surrounding properties. There**

were no objections from abutters.

**T. Morgan – I agree**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P Monzione – An area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property. If they are going to continue using the property historically the variance is needed.**

**T. Morgan – I agree, however I think the benefit sought by the applicant can be achieved by some other method and that would be in compliance with the setbacks.**

**M. Perry – I agree. That fact that they are using the existing porch that is attached by the house, granting the variance for the 7.5 sq. ft. is reasonable.**

**T. Kinnon – I think grant the variance is reasonable but I do not agree that a variance is needed in this particular case. I do believe the benefit sought cannot be achieved by any other method.**

**P. Monzione – I have seen no evidence or presentation that this same benefit could be achieved by other more reasonable or feasible means so in the absence of something present here, I don’t see how I could find that. I would find that the benefit sought by the applicant cannot be achieved by some other method for an area variance.**

**M. Perry – I feel that in the benefit sought by the applicant cannot be achieved reasonably by any other method.**

**M. Perry - Based on the above analysis, special conditions do exist such as the literal enforcement of the Zoning Ordinance results in unnecessary hardship. Given the setback it would be an unreasonable hardship.**

**Motion made by T. Kinnon that we approve Case Z06-08 Variance for David Herrick for a replacement of 7.5 sq. ft., seconded by P. Monzione. Motion passed with 3 in favor and 1 opposed.**

**Case Z06-09**

**Map 42 Lot 12**

**Area Variance**

**Greg & Deborah Vickowski**

**9 Mattleman Lane**

Continued from the April 6, 2006 meeting. The applicant is requesting a variance from Article 300 Section 370 – Shore land Protection Overlay District paragraph 8.0 Minimum Lot Standard Sub-paragraph G – Total parcel coverage by impervious surfaces including building footprint, impervious roads or other impervious covers shall not exceed 20% of the parcel area.

M. Perry – Please identify yourself.

Tom Varney – This is on Trask Road. The cottage is near the lake and the owner is planning to tear it down and build a new cottage and be outside the 30’ setback so he will be conforming on the zoning with the setback. He is also remaking the driveway to make it better and upgrading the storm

water drainage. He is also planning on landscaping the property and dealing with erosion control. We have addressed the Shore Land Protection on cutting trees and have submitted it to concord. DES sent letter back stating they are in agreement with the rules. The issue here is lot coverage in the zoning, which is not to exceed 20%. We already exceed that but the owner is adding more. We also want to present the hardship issues that we didn't get present last time.

Greg Vickowski – I purchased the property in December 2005. We decided to move the structure beyond the setback and have the property more conforming. In terms of the hardship, if there was ever a situation, which warranted a minor variance, this is the case. This property is a very unique situation and there are physical circumstances specifically with this property such as slope, topographical conditions, along with multiple ROW's that make it impossible to comply with the strict interpretation of the ordinance. Specifically there are two separate paved recorded ROW's over the lot. They are recorded by deed. The ROW's service 4 homes, which include the abutters. One ROW goes south (Tree Top Lane) and services 3 homes and then the other ROW goes toward my house and goes north and services the abutter to the north. We have moved the house away from the lake and there is no other location to put the house on this lot. We have no other means to access the property to be in compliance. One abutter has put up three different signs. The abutters have deeded access to this ROW. The home we are looking to build is single-family 1 ½ story with a garage and keeping within the neighborhood. We are willing to go through considerable expense to do the road to the house and reduce the pitch to 18 ½. It will increase the safety of my family, visitors, neighbor, and their visitors. We are complying with all the provisions of the ordinance. This house is ready to fall down.

M. Perry – Does the board have any questions?

P. Monziona – The variance application concerns itself with a request to exceed the 20% of the total lot. How much above the 20% would this proposed structure be?

G. Vickowski – If you include all of the roads the coverage would be 32%, if you don't include Tree Top Lane it would be 27%, and if you don't include the other road to the north that would be ~20%.

K. Menici – I am a little concerned because the application apparently from what the property owner just stated doesn't provide the board with complete information. The variance is being requested to allow greater than 20% lot coverage and that would be the lot in its entirety. From what the applicant just said the chart that was submitted to the board as part of the application was prepared by Pelletiri Associates, apparently doesn't include the lot coverage in its entirety and it does need to.

G. Vickowski – It does include the entire lot.

P. Monziona – If you include the entire lot and don't eliminate the ROW's but deal with the entire lot, what percentage of the lot would you propose to occupy with this structure?

G. Vickowski - ~12%

P. Monziona – So you seek the variance to enable you to occupy when considering the entire lot a

total of 32% of the lot would contain structure.

G. Vickowski – No It would be impervious surface, the roads and the house. The two ROW's are already 18% of the lot coverage. The house and garage would only be ~14% coverage.

M. Perry – Unfortunately you have to look at the total lot.

T. Kinnon – I have concerns about the drawing. Its roughly hand-sketched, it is not to scale and it is not something that can be entered into the record.

G. Vickowski – The measurements were handed in by an engineer. This sketch is for illustration purposes.

T. Kinnon – I feel that anything being presented to us needs to be entered in to the record. I am comfortable being used as graphical only.

P. Monziona – The photos of the abutting lots and structures, are those the cottages depicted on your site plan?

G. Vickowski – Yes

M. Perry – I will open this up to public. I will close public session.

M. Perry – Under this case, an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property and that is why they have asked for this area variance.

**T. Kinnon – The variance will not be contrary to the public interest. At present there is no drainage system for this property. All sediment and run-off goes directly into the lake. I do feel it is in the public interest to fix that problem. I feel that this variance will do that.**

**P. Monziona – I agree**

**T. Morgan – I agree**

**M. Perry – I agree**

**P. Monziona – The request is not in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety and character of the district within which it is proposed.**

**T. Morgan – I disagree, I think the request is in harmony with the spirit of the ordinance.**

**M. Perry – I disagree, I feel the request is in harmony and that is why the request is written as such.**

**T. Kinnon – I disagree, I think it is in harmony with the ordinance.**

**P. Monziona – By granting the variance, substantial justice will be done. I think the grant of the variance will enable an improved situation to exist.**

**T. Morgan – I agree**

**M. Perry – I agree substantial justice will be done by granting the variance.  
T. Kinnon – I agree**

**T. Morgan – The request will not diminish the value of surrounding properties. I think it will enhance the access of abutters and enhance the value of the neighborhood.**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P. Monziona – I agree, given the structure and condition of the structure it will enhance to property once the new house is built.**

**T. Morgan – An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property and the benefit cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P. Monziona – I agree. Without this plan the property becomes a burden to itself and the neighborhood.**

**Motion made by T. Kinnon to approve Case #Z06-09 Greg & Deborah Vickowski for an area and with the stipulations that the construction be adhered to the drawings submitted and the best management practices and also in accordance with NH DES Shore land Protection Program, seconded by T. Morgan. Motion passed with all in favor.**

**Case Z06-011**

**Map 51 Lot 34**

**Use Variance**

**Kathleen & Mark Dotter**

**4 Loveren Lane (Route 11-D)**

Continued from the April 6, 2006 meeting. The application was submitted under the 2005 ordinance prior to the town vote to modify the existing ordinance. Article 300 Section 301 #10- Zoning District Regulation – Permitted Uses Combined Dwelling and Business. With the change in the ordinance it is Article 400 section 401.

**K. Menici – In the packets the board received, there was a draft of a notice of decision for this application, and we don't know where it came from. I just wanted it to be clear that it was nothing staff was giving you it is from the applicant.**

**Melissa Guldbransen – The Dotter's are both counselors and have a home in the Lakeshore Residential Zone. They are seeking a variance that will permit them to meet with client in their home. It is a home occupation, which is permitted in zones except the Lakeshore Residential Zone. We are requesting a variance to permit that home occupation. The applicant's are more than willing to record a document at the registry of deeds, which would terminate their variance on certain conditions.**

**M. Perry - I have no questions**

**M. Guldbransen – Was Attorney Sessler comfortable with the contours of this variance?**

T. Morgan – He was comfortable with that, he just didn't want us to twist your arm for too many more concessions. As long as the concessions are voluntary we think that they are quite appropriate and as you had suggested can be recorded along with the deed.

M. Gulbrandsen –We also have a letter of support from an abutter. (See letter in file). The applicant's are proposing to use their home in a limited way to meet with clients during the week, one at a time. The zoning restriction in the Table of Uses is that home occupations are not permitted in the Lakeshore Residential Zone but they are in other zones. There would be no impact to the property. They do have enough parking. No one in the Town of Alton provides counseling services at this time. We are willing to limit the number of visits to their house by clients in a given week.

Kathleen Dotter – I have over 30 years experience. My practice in Wolfeboro, I see 4-6 people a week. I deal with people with depression, adjustment issues – divorce. The people I work with do not have a high need for emergency services or for different kinds of clinical responses that would be more challenging. I am also a LCSW.

Mark Dotter – I work for a public school system with adolescents. I want to get away from that and work with adults. I am a LCMHC.

M. Perry – Does the board have any questions?

T. Morgan – Is there a limit on the number of patients you intend to see in a week?

M. Gulbrandsen – We indicated in the application that they meet with 4-6 people weekly and the proposed draft as an outside limit combined would include no more than 8 client meetings per week.

T. Morgan – How would you sat that they bought the property knowing the zoning was in place and bought into the situation?

M. Gulbrandsen – I think that is a situation everywhere. The hardship is the fact that it is on the lake.

M. Perry –This is a very restricted area and the other exceptions are residential in nature like motels/hotels.

M. Gulbrandsen – I think this use is pretty close to a residential motel use in the sense that guests are coming to the property but only staying for an hour as opposed to a guest coming to a motel and staying for 24 hours. There is no impact on the lake.

P. Monziona –The variance you are seeking would be granted to individuals as opposed to the land, it would not run with the land?

M. Gulbrandsen – We can give up the variance anytime. Also, it would be that these people agree give up the variance anytime, there is no reason that we can't record a document which is notarized and properly executed in which these people agree that when they sell, pass away, or upon the expiration of 25 years that they would abandon the variance.

P. Monziona – The variance would have to be granted as any business variance in this zone, but then there would be a side agreement with the Dotter's that they would agree that before the variance would go to others or upon expiration of a term that they would record a document canceling the variance.

M. Guldbransen – Yes

P. Monziona – Under the current zoning, if someone were a CPA, would he/she conduct business in his/her home?

M. Guldbransen – Not in the Lakeshore Residential Zone. The board has the right to put conditions of approval of a variance.

M. Perry – I will open this to the public. I will close public input.

T. Kinnon – I am fairly comfortable with this even though it is very restrictive zone.

M. Perry – My concern is that, how many other cases would come along that are similar to this case in this zone. We would have to look at the cases on an individual basis.

T. Morgan – I don't think without the side agreement we could consider approving the variance.

**M. Perry – The variance will be contrary to the public interest.**

**T. Kinnon –I disagree, because I don't see how there would be any adverse impact on the neighborhood with this very limited type of business. I feel that the services provided could be useful to the Town of Alton and to the public.**

**P. Monziona - I could probably concur with what Tim is saying about the variance will not be contrary to the public interest if indeed it is limited as described so that we are not extending into an area and making a big retail business. It is a service that is helpful to the public and could serve the interest of Alton.**

**T. Morgan – I disagree solely because of the criteria established here.**

**T. Kinnon – The request is in harmony with the spirit of the Zoning Ordinance because of the low impact of what is requested. Few clients, no signage.**

**P. Monziona – I don't think it is in harmony with the Zoning Ordinance.**

**T. Morgan – The intent should be residential.**

**M. Perry – I disagree, I don't think the request is in harmony especially of this district.**

**M. Perry – By granting the variance substantial justice will not be done. I feel that this is a very restrictive zone and I think it is written that way intentionally.**

**T. Kinnon – I feel substantial justice would be done.**

**P. Monziona – I think by granting the variance substantial justice will not be done because it exceeds the scope of what is allowed for a variance in this zone.**

**T. Morgan –Granting this variance will not result in substantial justice.**

**P. Monziona – The request will not diminish the value of the value of the surrounding properties.**

**T. Morgan – I agree**

**M. Perry – I agree**

**T. Kinnon – I agree**

**T. Morgan – The zoning restriction as applied does not interfere with the landowner's reasonable use of the property, considering the unique setting of the property in its environment, and there is a fair and substantial relationship between the general purposes of the Zoning Ordinance and the specific restrictions on the property, and the variance will injure the public or private rights of others, although one abutter does not have an objection.**

**M. Perry – I agree with the first two with Tim but I don't agree with the 3<sup>rd</sup> on because I think it will injure the public or private rights of others if we allow business in this zone.**

**T. Kinnon – I disagree with Tim on numbers 1 & 2 and I don't feel the variance would injure the public or private rights of others.**

**P. Monziona – I agree with Tim on numbers 1 & 2 and I don't feel the variance would injure the public or private rights of others.**

T. Kinnon – I believe if any of these are in opposition that they should not be approved.

**Motion made by T. Morgan that the board reject the application Case #Z06-11, seconded by M. Perry. Motion passed with 3 in favor and 1 opposed.**

**Case Z06-16**

**Map 22 Lot 2**

**Variance**

**Michael & Christine Hoyt**

**1023 Suncook Valley Road**

Application submitted by Michael & Christine Hoyt seeking a variance from Zoning Article 300 Section 327 A: 1 – Setback Requirements – to replace two decks on their home within the setback. The property is located in the Rural Zone.

K. Menici – I don't have a site plan to submit to the board. The applicant's had submitted a copy of 11X17 that had been previously submitted. There are some photos that were submitted.

M. Perry – Are there waivers?

K. Menici – Just the waivers on the special exceptions.

**Motion made by T. Morgan to accept Case #Z06-16, seconded by P. Monziona. Motion passed with all in favor.**

Michael Hoyt – We are looking for a variance to replace two existing decks on our home. We previously applied and were approved for a variance and a special exception to tear down and rebuild the existing home. During that process we were advised that the decks would have to be a

separate variance. We have decks on the house now. We needed to add 3'-4' in width to the existing to have stairs.

M. Perry – The existing house is being torn down completely and the decks are going to be removed completely.

M. Hoyt – Yes, I have drawings of the new house.

M. Perry – Is the house being built in the exact footprint?

M. Hoyt – The exact same footprint with the exception of it being 1' shorter and 1' wider

Christine Hoyt – The previous variance was for the 1'X1' square and an elevation change.

M. Perry – There is no way to move the house to a different spot?

M. Hoyt – We wanted to but it was the board's recommendation that we not do that.

M. Perry – What is the height of the house?

M. Hoyt – 31' from the grade

M. Hoyt – The full dimensions of the house are 44' long x 26' wide x ~31' high.

T. Kinnon – The deck that is on the lakeside of the house, there is a dimension of 24', does that include the stairs?

C. Hoyt – Yes

T. Kinnon – Is that the same dimension that you have now?

M. Hoyt – Presently without stairs, the deck is 8'X18'.

T. Morgan – What is the change in dimension on the deck on the side?

M. Hoyt – 5', it is presently 14'X12'

T. Morgan – So it goes 5' into the setback and that would be 5' additional into the setback.

M. Hoyt – Yes

T. Morgan – What is the height of the current house?

M. Hoyt – 1-½ stories.

K. Menici – Would it be helpful if I went a got the case file from the previous year?

M. Perry – Yes

T. Morgan – Why did it get split up this way?

C. Hoyt – It was confusion, it was a different Town Planner.

T. Morgan – Are there minutes from last year's meeting to indicate what went on and why this decision was made the way it was?

K. Menici – What do you mean the decision was made the way it was?

T. Morgan – Why it was that they could build the house in the same footprint but you have to come back for the decks. When you initially submitted to rebuild did the plans show the decks?

M. Hoyt – Yes this is the same plan we submitted the first time.

T. Kinnon – I thought as some point this was approved according to this drawing? This drawing does show the decks.

K. Menici – The ZBA has to grant the specific variance.

P. Monziona – The side deck would extend 5' in to the setback and what about the front deck.

M. Hoyt – We are proposing 8'X24'. Presently we are 8'X18'.

T. Kinnon – Do you feel that you need stairs on both decks?

M. Hoyt – The way the house is laid out it would actually be a fire exit.

**T. Morgan – The variance will not be contrary to the public interest.**

**M. Perry – The variance will not be contrary to the public interest.**

**T. Kinnon – I agree.**

**A. Bystrack – I agree**

**P. Monziona – I agree**

**M. Perry – The request is in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, and character of the district within which it is proposed. I think it is a safety issue with the stairs off the deck. It is not uncommon to have the stairs go down off the deck to the lake.**

**T. Kinnon – I agree**

**A. Bystrack – I agree**

**P. Monziona – I agree**

**T. Morgan – I agree**

**T. Kinnon- By granting the variance, substantial justice will be done.**

**A. Bystrack –I agree**

**P. Monziona – I agree**

**T. Morgan – I agree**

**M. Perry – I agree**

**A. Bystrack – The request will not diminish the value of the surrounding properties. If anything it will enhance and increase the values.**

**P. Monziona – I agree**

**T. Morgan – I agree**

**M. Perry – I agree**

**T. Kinnon – I agree**

**P. Monziona – An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.**

**T. Morgan – I agree**

**M. Perry –I agree**

**T. Kinnon- I agree**

**A. Bystrack – I agree**

**M. Perry – Based on the above analysis, special conditions do exist such as the literal enforcement of the Zoning Ordinance results in unnecessary hardship.**

**Motion made by T. Morgan to approve Case #Z06-16, seconded by M. Perry. Motion passed with all in favor.**

**Motion made by T. Morgan to adjourn, seconded by P. Monziona. Motion passed with all in favor.**

Respectfully Submitted,

Jennifer M. Fortin  
Secretary pro temp