

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Thursday, June 2, 2022, at 6:00 P.M.
Alton Town Hall**

MEMBERS PRESENT

Thomas Lee, Chair
Paul Monziona, Vice Chair
Frank Rich, Member/clerk
Paul LaRochelle, Selectman's Representative
Mark Manning, Alternate Member
Tim Morgan, Member

Mike Hepworth, Alternate Member – excused absence

OTHERS PRESENT

John Dever, III, Code Enforcement Officer
Michael & Brenda Keiran, applicants
Randy Walker, Esq., Trustee of the Little Mark Island Trust
Jesse Lindland, Outside In Construction – representative for applicants

CALL TO ORDER

Chair Lee called the meeting to order at 6:04PM.

INTRODUCTION OF BOARD MEMBERS

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

APPOINTMENT OF ALTERNATES

Chair Lee stated one case tonight will have a recusal of a member.

Mr. Monziona made a motion to appoint Mr. Manning for this meeting. Mr. Rich seconded the motion. Motion passed, 4-0-0.

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.

APPROVAL OF AGENDA

The Board reviewed the agenda.

Mr. Dever stated Case Z22-03, Joseph Puzzo, Agent for Puzzo Family Revocable Trust, Dean & Teresa Puzzo, Trustees, Owners, Map 11 Lots 25-53, Lake Wood Drive, which was continued from the April 7, 2022 meeting, has been withdrawn by the applicants.

Mr. LaRochelle made a motion to approve the agenda as amended. Mr. Rich seconded the motion. Motion passed, 6-0-0.

REHEARING REQUEST

Case #Z21-29 John Goodrich & Lisa Nicastro, Owners	Map 9 Lot 33-2 239 Henry Wilson Hwy.	Discussion on Request for Rehearing
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Mr. Monziona recused himself from this case.

Chair Lee stated the Board will not be discussing the details, arguments and objections of the case further; the case has been heard and voted on by the members of the Zoning Board of Adjustment. He explained this is a for a motion to have a rehearing as requested; he stated ample documentation has been presented by an abutter for a rehearing as well as an objection forwarded by the applicant's attorney.

Chair Lee stated the Board needs to determine whether good cause is presented to warrant a rehearing. The Board reviewed the documents presented.

Chair Lee stated he has been on the Board for the duration of this case and does not believe a rehearing is warranted.

Mr. LaRochelle stated he has reviewed the documents presented and does not believe a rehearing is necessary.

Mr. Manning stated he doesn't believe there is a reason for a rehearing.

Mr. Morgan stated the Board has historically been liberal in granting re-hearings in order to ensure they made the right decision as well as to provide further documentation in the event the case goes to the Superior Court; he stated he would be in favor of granting a rehearing.

Mr. Rich stated he agrees with Mr. Morgan in terms of rehearing and after reading the detailed abutter's motion for rehearing and considering the proposal that was laid out by the Board for equipment, he doesn't think the Board gave consideration to the types of requirement and only considered the number of items. He stated in retrospect, he believes a rehearing on the merits is warranted.

Roll Call Vote: Mr. Rich- yes; Mr. Morgan – yes; Mr. LaRochelle – no; Mr. Manning – no; Chair Lee – no. Board voted 2-3-0.

NEW APPLICATIONS

Case #Z22-09 Michael & Brenda Keiran, Owners	Map 63 Lots 63-04 1624 Mt. Major Highway	Variance Lakeshore Residential Zone
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A **Variance** is requested to **Article 300, Section 327 A.2.** of the Zoning Ordinance to permit construction of a garage for residential use.

Chair Lee read the public notice into the record. The Board reviewed the application for completeness.

Mr. Morgan made a motion to accept the application for Case# Z22-09 as complete. Mr. Rich seconded the motion. Motion passed, 6-0-0.

Mr. Keiran stated he would like to construct a garage for residential use; he stated the proposed sight is out of the State’s right-of-way setback for Route 11 but is within the 25’ setback requirements for the Town of Alton. He stated the setback requirement from the property line is 10’ and the location would be about 7’ for the property line. He stated the location for the building was selected in order to allow access to the backside of the property on both sides and it can’t be moved back further from the proposal location due to the septic system. Mr. Keiran stated if it was located on the other side of the house, access to the backside of the property would be blocked.

Mr. Morgan asked if the existing garage will be removed. Mr. Keiran stated he has been using the existing structure as a woodshop and like to keep it. The proposed garage would be located behind the existing shed. Mr. Monziona asked if the area that appears to be a slab is the size of the proposed garage. Mr. Keiran stated it would be larger by about 18”.

Mr. Monziona asked the dimensions of the proposed garage. Mr. Keiran stated it would be 24’ by 24’. Mr. Monziona asked how a different location of the garage would prohibit access to the back of the property. Mr. Keiran explained if he moved the garage back further from Route 11, it would be too close to the septic system; if the garage were on the other side of the house, it would block access.

Mr. Rich asked what the encroachment would be in to the setback. Mr. Keiran stated it is 3’ and only the back corner would encroach. Mr. Rich asked if it could be moved east to west to not encroach on the side setback. Mr. Keiran stated the back of the property wouldn’t be affected but he is also trying to maintain the width of the driveway of the eastern entrance from Route 11. Mr. Dever explained the garage would have to be angled more in order to keep it out of the driveway; it would also be closer to the house with more encroachment on the side setback.

Mr. Manning asked how far the garage will be from the State right-of-way. Mr. Keiran stated it would be about 17’.

Mr. Rich asked if the septic area is to scale on the plans. Mr. Keiran stated the system is going to be about 6' behind the fence; the leach field extends to Railroad Avenue, away from Route 11. Mr. Rich noted the application indicates the lot is 51,000 square feet. Mr. Keiran stated his lot is parcel B that is 36,000 square feet

Chair Lee opened the hearing to input from members of the public in favor of the project.

Thomas Decowski, abutter, stated he has no problem with the plans proposed.

Chair Lee opened the hearing to input from members of the public in opposition of the project. None was indicated.

Chair Lee closed the hearing to public input at 7:40PM.

Discussion Case #Z22-09

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

Chair Lee stated granting the variance **would not** be contrary to the public interest. He stated no evidence has been presented to support that it would be contrary to the public interest; the direct abutter is supportive of the project. The Board agreed 5-0-0.

Mr. LaRochelle 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 this is a difficult, old lot without a lot of room for a garage, so this is characteristic of surrounding properties in the area. The Board agreed, 5-0-0.

Mr. Monziona stated that by granting the variance, substantial justice **will be** done. He stated the case will meet the hardship requirements; there is no relationship between the ordinance and the public purpose of the ordinance. Mr. Morgan stated substantial justice will be done and the benefit to the applicant outweighs any detriment to the public. The Board agreed, 5-0-0.

Mr. Morgan stated the values of surrounding properties **will not be** diminished. He stated no evidence has been presented that indicates surrounding properties would be diminished. The Board agreed, 5-0-0.

Mr. 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.*

Mr. Rich stated to deny this variance would impose a hardship; the use is reasonable. He stated there is a hardship of special conditions which distinguish this from other properties. The Board agreed 5-0-0.

Mr. LaRochelle made a motion to grant the request for a Variance for Case #Z22-09. Mr.

Monziona seconded the motion. Motion passed, 5-0-0.

Case #Z22-10 Jesse Lindland of Outside In Construction, Agent for Paul & Heather Hardcastle, Owners	Map 22 Lot 35 38 O'Neil Road	Special Exception Rural Zone
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A **Special Exception** is requested to **Article 300, Section 320 J.** of the Zoning Ordinance to permit replacement of an existing, non-conforming dwelling with a more conforming dwelling.

Chair Lee read the public notice into the record. The Board reviewed the application for completeness.

Mr. Morgan made a motion to accept the application for Case# Z22-10 as complete. Mr. LaRochelle seconded the motion. Motion passed, 5-0-0.

Jesse Lindland of Outside In Construction, Agent for Paul & Heather Hardcastle, Owners, stated they are looking to convert a seasonal home to a year-round home. He stated the new home will be more conforming and outlined the changes which will make it less nonconforming: the nearest point to the shore line will go from 14.3' and to 15.8'; the living space within 30' of the Town setback will go from 276 square feet to 48 square feet; the impermeable space will be reduced from 653 square feet to 427 square feet. Mr. Linland stated a well will also be installed. The septic system was installed in 1990; he stated there will be an updated design but the size will remain the same in order to comply with State regulations; the home will remain 2 bedrooms.

Mr. Rich confirmed this will be a complete tear-down and asked if it would be a new foundation. Mr. Linland stated it would be.

Mr. Manning noted the proposed footprint appears to be larger than the existing, and will have a larger amount of impermeable ground. Mr. Linland stated that is correct; he stated the only encroachment will be on the side setback; the impermeable coverage will be within the requirements for the lot; the total height will be 28' from the footing. He stated he doesn't know the exact height of the current structure but it is a single story camp; there are no homes directly across the street. Mr. Linland explained the location of the septic and confirmed it meets setback requirements.

Chair Lee outlined the points of Article 300, Section 320 J:

Replacement of Nonconforming Structures that are Voluntarily Removed: Replacement of nonconforming structures that are voluntarily removed may be permitted if a Special Exception is approved by the Zoning Board of Adjustment if replacement complies with the following, in addition to the criteria outlined in SECTION 520:

1. One bedroom structures may be increased to two (2) bedroom with the installation of a NH Department of Environmental Services approved septic system; (As amended 09 March 2021)
2. Structures with two (2) or more bedrooms shall not be allowed to increase the number of bedrooms;
3. There is no increase in the nonconforming aspect of the structure;
4. The replacement structure shall not create a new nonconforming aspect to the structure;
5. The replacement structure shall be allowed to expand only within the building envelope as defined in SECTION 200 of this ordinance;

Chair Lee stated the proposed house is remaining two bedrooms and there is no increase in the nonconforming aspects of the structure.

Chair Lee opened the hearing to input from members of the public in favor of the project. None was indicated.

Chair Lee opened the hearing to input from members of the public in opposition of the project. None was indicated.

The Board must find that all the following conditions are met in order to grant the Special Exception

Chair Lee stated that a plat/plan **has** been submitted in accordance with the Zoning Ordinance, Section 520B- The Board agreed.

Mr. LaRochelle stated the specific site **is** an appropriate location for the use- The Board agreed.

Mr. Monziona evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated this is a residential use, it is not compatible and there has been no information or evidence that property values would be reduced- The Board agreed.

Mr. Morgan stated there **is no** valid objection from abutters based on demonstrable fact; he stated no input from abutters was received. The Board agreed.

Mr. Rich stated 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; he stated this is going from a seasonal home to a year-round home and there is little difference in the traffic for a seasonal or year-round home. The Board agreed.

Chair Lee stated adequate and appropriate facilities and utilities **will be** provided to insure the proper operation of the proposed use or structure. The Board agreed.

Mr. LaRochelle stated there **is** adequate area for safe and sanitary sewage disposal and water

supply; he stated the existing septic system is approved by the State of New Hampshire but because it is being changed from a seasonal use to year-round use, a new well will be installed and there will be a new septic design. The Board agreed.

Mr. Monziona stated the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. He stated a seasonal two bedroom structure will be improved and made less nonconforming to be an improvement to the property and the area. The Board agreed.

Mr. Monziona made a motion to grant the request for a Special Exception for Case #Z22-10 on the condition that the NH DES requirements for well and septic be met. Mr. Morgan seconded the motion. Motion passed, 5-0-0.

Case #Z22-11 Thomas R. Walker, Trustee of the Little Mark Island Trust, Owner	Map 56 Lot 22 Little Mark Island	Special Exception Lakeshore Residential Zone
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A **Special Exception** is requested to **Article 320, Section H.3. & J.** of the Zoning Ordinance to permit replacement of existing non-conforming residential structure and bunkhouse with a code compliant structure with an increase in the ridgeline height.

Chair Lee read the public notice into the record. The Board reviewed the application for completeness.

Mr. LaRochelle made a motion to accept the application for Case# Z22-11 as complete. Mr. Rich seconded the motion. Motion passed, 5-0-0.

Randy Walker, Esq., Trustee of the Little Mark Island Trust, stated the Trust owns the island and there are three structures currently on the island including a house, a boat house and bunkhouse. He stated the proposal is to remove all three and replace with nearly identically sized buildings. Mr. Walker stated Norway Plains did a survey of the island before and after to show the existing buildings and proposed plans. He stated an architecture design was done for the new structures as well.

Mr. Walker stated the bunkhouse will be replaced with a shorter building as a bedroom is being removed; the main house will be rebuilt on a footprint that is expanded by 196 square feet. He stated all three structures will appear to be the same size and height as the existing structures. Mr. Walker stated there are currently four bedrooms total on the island and the proposal is two bedrooms total; he stated the impervious coverage is being reduced overall with the removal of decks and porches. He stated the bunkhouse will be reduced from two stories to a single story.

Mr. Walker stated the property draws water from the lake and will continue to do so; there is currently a holding tank for the septic but it will be replaced with a new tank which was approved by NH DES in 2019. He stated the height of the proposed buildings will be compliant but because it's in the shoreline setback, the special exception is needed; he stated there won't be any tall buildings overshadowing others or impeding views. Mr. Walker stated they intentionally

designed the plans which include the reduction of bedrooms to make up for the 2' height increase on the house.

Mr. Dever noted the current septic approval is only three years old so they can use it; it is a 3,000 gallon tank. Mr. Morgan asked if two special exceptions are needed. Mr. Dever explained there is only one special exception as the requests were combined for the ridge height and the replacement of the structure; case Z22-12 is for a variance. Mr. Dever stated there is no building envelope on this site as the shoreline setbacks all overlap.

Mr. Monziona noted Section J allows an expansion upward as well as voluntarily taking down a structure. He asked what the bunk house will be used for. Mr. Walker stated the holding tank will be in there. It was confirmed the build will be done exactly as depicted on the architectural plans; Mr. Walker stated they worked hard to ensure the proposed buildings will be as close to the original style and size as possible.

Chair Lee noted input was received from the Conservation Commission indicating they are supportive of the proposed plans.

Mr. Rich asked how long they expect the demolition and rebuild process will take. Mr. Walker stated they don't have a timeline at this point but they don't anticipate starting this year.

Chair Lee opened the hearing to input from members of the public in favor of the project. None was indicated.

Chair Lee opened the hearing to input from members of the public in opposition of the project. None was indicated.

Chair Lee closed the public portion of the hearing at 7:30PM.

The Board must find that all the following conditions are met in order to grant the Special Exception

Chair Lee stated that a plat/plan **has** been submitted in accordance with the Zoning Ordinance, Section 520B. The Board agreed, 5-0-0.

Mr. LaRochelle stated the specific site **is** an appropriate location for the use. He stated this is a residential home and will continue to be a seasonal residential home. The Board agreed, 5-0-0.

Mr. Monziona evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated this is a residential use, it is not compatible and it won't negatively impact property values but will increase the value of this property. Mr. Rich stated this is an iconic property and value is immeasurable and the owners are only increasing the island, buildings and the surrounding area. The Board agreed, 5-0-0.

Mr. Morgan stated there **is no** valid objection from abutters based on demonstrable fact; he stated

no input from abutters was received. The Board agreed, 5-0-0.

Mr. Rich stated 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; he stated this is an island home and doesn't see how it will affect traffic. The Board agreed, 5-0-0.

Chair Lee stated adequate and appropriate facilities and utilities **will be** provided to insure the proper operation of the proposed use or structure. The Board agreed, 5-0-0.

Mr. LaRochelle stated there **is** adequate area for safe and sanitary sewage disposal and water supply; he stated this is a residential property and will remain a seasonal property; the holding tank will be upgraded to 3000 gallons and water will continue to be drawn from the lake. Mr. Monziona stated appropriate approvals will still be required from the State of New Hampshire. The Board agreed, 5-0-0.

Mr. Monziona stated the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. He stated a seasonal two bedroom structure will be improved and made less nonconforming to be an improvement to the property and the area. The Board agreed, 5-0-0.

Mr. Monziona made a motion to grant the request for a Special Exception for Case #Z22-11 on the condition that the NH DES requirements for well and septic be met. Mr. LaRochelle seconded the motion. Motion passed, 5-0-0.

Case #Z22-12 Thomas R. Walker, Trustee of the Little Mark Island Trust, Owner	Map 56 Lot 22 Little Mark Island	Variance Lakeshore Residential Zone
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A **Variance** is requested to **Article 320 J. 3.** to permit an increase of the existing footprint.

Chair Lee read the public notice into the record. The Board reviewed the application for completeness.

Mr. Walker stated the proposal is to tear down the three existing structures and replace them; the the overall number of bedrooms will be reduced; the residential footprint will go up about 196 square feet; the footprint for the bunkhouse will increase by 30 square feet although the second story is being removed so the total square footage will be reduced. Mr. Walker stated overall there is an increase in the previous area.

Mr. Walker stated the variance will not be contrary to the public interest as it won't alter the feel of the neighborhood and no threat to the public safety and welfare. He stated the small footage increase will have no discernable impact on the neighbors or general public; the structures will be aesthetically pleasing. Mr. Walker stated it is generally beneficial to decrease the number of bedrooms and pervious area; there won't be any diminution of surrounding properties; he stated denial will be a hardship. He stated the island is a fair distance from the mainland and the entire island is owned by the applicant. Mr. Walker stated there won't be a visible size difference; the proposed use is reasonable and will remain seasonal residential use. He noted all neighbors are in

favor of the application.

Mr. Morgan made a motion to accept the application for Case# Z22-12 as complete. Mr. LaRochelle seconded the motion. Motion passed, 5-0-0.

Mr. Rich asked if because the special exception was granted, does the variance need to be granted. It was noted the special exception is for the increase in height and removal of existing buildings; the variance will address the expansion of the footprints.

Chair Lee opened the hearing to input from members of the public in favor of the project. None was indicated.

Chair Lee opened the hearing to input from members of the public in opposition of the project.

Discussion Case #Z22-12

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

Chair Lee stated granting the variance **would not** be contrary to the public interest. He stated no evidence has been presented to support that it would be contrary to the public interest. The Board agreed, 5-0-0.

Mr. LaRochelle 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 this will not threaten the health or welfare of the citizens of Alton in any way. The Board agreed, 5-0-0.

Mr. Monziona stated that by granting the variance, substantial justice **will be** done. He stated there will be benefit to the owner; the benefit outweighs and detriment to the public. The Board agreed, 5-0-0.

Mr. Morgan stated the values of surrounding properties **will not be** diminished. He stated no evidence was presented that values would be diminished. The Board agreed, 5-0-0.

Mr. 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.*

Mr. Rich stated to deny this variance would impose a hardship; the use is reasonable. He stated the property is on its own island. Mr. Rich stated it is an iconic property and the improvements will be an asset to the community. The Board agreed, 5-0-0.

Mr. Morgan made a motion to grant the request for a Special Exception for Case #Z22-12. Mr. LaRochelle seconded the motion. Motion passed, 5-0-0.

OTHER BUSINESS

1. Previous Business: None.

2. New Business:

- a. Alternative Housing Committee update – Mr. Dever stated there was a meeting last week and the Town voted to retain the services of a consultant who is working with the Master Plan Committee and focusing on developing the criteria for short term rentals. He stated the intent is to have a permit process which will be handled by the Board of Selectmen.

Mr. Monzione stated the thinking is that if the ZBA were to be the one which grants the permit, it would run with the land but if the Board of Selectmen handles the permit, those can be revoked or have expiration dates. He stated the Zoning Amendment Committee will also be looking at how it will be incorporated into the Zoning Ordinance. Mr. Dever explained short term rentals have increased exponentially over the last ten or so years and it is causing problems with potentially have commercial activity. Mr. Monzione stated its taking place in zones which don't allow commercial activities so they need to address regulation through the ordinances. Mr. LaRochelle stated there has been a lot of public input, both in favor and opposition to this issue. Mr. Dever stated there are a lot of aspects to consider and they are getting a lot of input from a variety of individuals.

Other

Mr. Monzione stated he would be resigning from the Board, effective immediately, due to a case he will be taking to court.

3. Approval of Minutes:

Meeting of April 7, 2022 – Edits were made. **Mr. Morgan made a motion to approve the minutes as amended. Mr. LaRochelle seconded the motion. Motion passed, 4-0-0.**

Meeting of May 5, 2022 – Edits were made. **Mr. LaRochelle made a motion to approve the minutes as amended. Mr. Rich seconded the motion. Motion passed, 4-0-0.**

4. Correspondence: None.

ADJOURN

Mr. LaRochelle made a motion to adjourn. Mr. Rich seconded the motion. Motion passed, 4-0-0.

The meeting was adjourned at 8:10PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary