

TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
Alton Town Hall
PUBLIC HEARING
June 4, 2020, 6:00 P.M.

UNTIL FURTHER NOTICE:

To keep our members and staff safe, and to comply with RSA 91-A, the COVID-19 State of Emergency, and the Governor's Orders on restrictions at public gatherings, the Town of Alton is moving from "in-person" meetings to "remote audio participation meetings".

To remotely attend the meeting (audio only) visit our website: www.alton.nh.gov for telephone access and remote access instructions listed under News and Announcements on the home page (you can access an audio/video livestream there as well), or telephone the Planning Department's Office at (603) 875-2162 between 8:00 AM to 4:30 PM for more information, and for the Dial-in Code and Meeting ID for each Zoning Board meeting.

Members Present

Paul Monzione, Chairman
Frank Rich, Vice-Chair
Tim Morgan, member – absent
Paul LaRochelle, Selectman's Representative/clerk
Thomas Lee, member

Others Present

John Dever, III, Code Enforcement Officer
Tom Varney, Varney Engineering, LLC – via Zoom
Kate Varney, Varney Engineering, LLC – via Zoom
Jennifer Boynton, applicant – via Zoom
David Boynton, applicant – via Zoom
Paul Goodwin, Watermark Marine Systems LLC – via Zoom
Michael Sullivan, applicant – via Zoom

CALL TO ORDER

Chair Monzione called the meeting to order at 6:10pm. He stated Mr. Morgan has still not arrived but will begin the meeting for the six cases on the agenda. Chair Monzione stated they have a quorum of four members present. Introductions were made of the individuals physically present at the meeting at Town Hall.

APPROVAL OF AGENDA

The Board reviewed the Agenda. Chair Monzione suggested moving the Election of Officers to the end of the meeting, as there are six cases to be heard.

**Mr. Rich made a motion to move the Election of Officers to the end of the meeting.
Mr. Lee seconded the motion. Motion passed, 4-0-0.**

APPOINTMENT OF ALTERNATES

Chair Monziona stated this cannot be done as there are no alternate members available. He stated the Board is still looking for alternate members.

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, 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 have been or will be met.

Mr. Lee made a motion to accept the Agenda. Mr. Rich seconded the motion.
Motion passed, 4-0-0.

CONTINUED FROM MARCH 5, 2020

Case #Z19-25 Richard J. Fiore, Jr., Richard J. Fiore, Sr., & Arlene M. Fiore, Owners	19 Depot Street Map 27 Lot42	Special Exception Rural (RU) Zone
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A **Special Exception** is requested from **Article 400 Section 401D.5.** of the Zoning Ordinance to permit the repairs of commercial trucks on the property when off site work is not an option.

Chair Monziona stated the applicants are present via Zoom; the meeting will be recorded and asked anyone speaking to identify themselves.

Chair Monziona stated the applicant nor a representative for the applicant have made contact with the Board and were not present at this time. He suggested moving it to the end of the meeting in case the applicant joins the meeting at a later time. Mr. Dever confirmed the applicant was notified of this meeting.

Case #Z19-26 Richard J. Fiore, Jr., Richard J. Fiore, Sr., & Arlene M. Fiore, Owners	19 Depot Street Map 27 Lot 42	Variance Rural (RU) Zone
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A **Variance** is requested from **Article 400 Section 401D.13.** of the Zoning Ordinance to permit the use of boat storage on the property.

Mr. Lee made a motion to move Case #Z19-25 and Z19-26 to the end of the meeting to see if the applicant will join the meeting at that time. Mr. Laroche seconded the

motion. Motion passed, 4-0-0.

Case #Z20-02 Thomas Varney, P.E., Varney Engineering, Agent for Geraldine Gaeta & Jonathan Paine, Owners	64 Barbara Drive Map 71 Lot 21	Special Exception Rural (RU) Zone
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A **Special Exception** is requested from **Article 300 Section 320 H (b)** of the Zoning Ordinance for construction of screen porch and deck which will expand the structure towards and into the building envelope.

Chair Monziona stated the Board previously reviewed the application and accepted it as complete. Mr. Dever noted the continuance was requested for by the applicant as there were only three members present at that time. Mr. LaRochelle stated he would recuse himself from hearing this case.

Chair Monziona asked Tom Varney, Varney Engineering LLC, via Zoom, representative for the applicants, if he wants to proceed with the three members present on the Board at this time. Mr. Varney replied no and asked for confirmation Geraldine Gaeta & Jonathan Paine are present via Zoom. Ms. Gaeta requested to move the case to the end of the agenda in the event that another Board members joins the meeting.

Mr. Rich made a motion to move Case #Z20-02 to the end of the Agenda. Mr. Lee seconded the motion. Motion passed, 4-0-0.

NEW APPLICATIONS

Case #Z20-06 David & Jennifer Boynton, Owners	340 Rattlesnake Island Map 77 Lot 9	Special Exception Lakeshore Residential (LR) Zone
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A **Special Exception** is requested from **Article 300, Section 320 J.** of the Zoning Ordinance for a replacement of a nonconforming structure in the same footprint as the existing nonconforming structure with the expansion into the building envelope.

Chair Monziona read the case into the record. The Board reviewed the application for completeness.

Mr. LaRochelle made a motion to accept the application for Case #Z20-06 as complete. Mr. Lee seconded the motion. Motion passed, 4-0-0.

David Boynton, applicant, via Zoom, stated the current structure needs to be replaced and their plan is to tear down the existing cottage and rebuild within the same footprint. Mr. Boynton stated there is a part of the cottage, which will need the special exception. He stated there would be no change of use to that part of the building; it will be going from a shed roof to a gable room and are looking to change the pitch of the roof in that area for drainage issues. Mr. Boynton stated this change will improve the overall usability and confirmed a State approval has been received for tearing down the cottage. He stated a

new three-bedroom septic system was installed within the last two years. Chair Monzione asked for explanation of the elevation depictions; Mr. Boynton confirmed they are not looking to add any height and will be rebuilding in-kind. Chair Monzione asked how far into the 30' shoreline setback, does the current structure encroach. Mr. Boynton replied it is 10'. Chair Monzione asked if the new structure would remain at the 10' encroachment. Mr. Boynton replied yes, the same footprint would be used although an existing shed near the shore will be removed to reduce nonconformity. Chair Monzione asked if there is some way to relocate the structure so it would not be as encroaching into the setback. Mr. Boynton stated the way the deck is currently constructed, they cannot do that; no changes will be made to the exterior deck of the property and to do as he suggested would leave a large gap between the existing deck and the new cottage. Mr. Lee asked how they plan to address runoff and impervious surface. Mr. Boynton stated that in the approval from the State of NH, they included water management plans, which include crushed stone and drainage areas around the property to catch runoff from the roof.

Chair Monzione noted a letter was received from ????, indicating support for the proposed plans.

Chair Monzione opened the Public Hearing to input in support of the application being granted. None was indicated. He then opened the Public Hearing to input in opposition of the application being granted. None was indicated. Chair Monzione closed the Public Hearing to public input.

Mr. Rich noted there is no comment received from the Conservation Commission. Mr. Dever stated the Commission has not had a chance to meet to review this application.

Discussion:

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

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

Mr. Rich stated the specific site **is** an appropriate location for the use. He stated the plans do a good job in mitigating the nonconforming aspects of the structure. The Board agreed.

Chair Monzione stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated the use is not changing; there is a likely hood that improving the structure would improve values in the area. The Board agreed.

Mr. LaRoche stated there **is no** valid objection from abutters based on demonstrable fact. He stated no abutters indicated opposition and one letter received from an abutter was in support. The Board agreed.

Mr. Lee 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. The Board agreed.

Mr. Rich stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. He stated there is a new septic design system, NH DES permits and it will be providing better assurance of proper operation. The Board agreed.

Chair Monziona stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated they have the appropriate approvals from NH DES and nothing is being changed by the new structure that would have any affect on safe and sanitary sewage disposal or water supply. The Board agreed.

Mr. LaRochelle stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Lee made a motion to grant the request for Special Exception for Case #20-06 as proposed. Mr. Rich seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monziona – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Case #Z20-07 Paul Goodwin, Watermark Marine Systems LLC, Agent for Michael Sullivan, Owner	140 Rattlesnake Island Map 75 Lot 30	Special Exception Lakeshore Residential (LR) Zone
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A **Special Exception** is requested from **Article 300, Section 360** of the Zoning Ordinance to construct a dug-in boat house 30ft. x 30ft., a non-habitable structure as the principle building on the lot.

Chair Monziona confirmed the applicant and agent were present via Zoom.

Chair Monziona read the case into the record. The Board reviewed the application for completeness.

Mr. LaRochelle made a motion to accept the application for Case #Z20-07 as complete. Mr. Lee seconded the motion. Motion passed, 4-0-0.

Paul Goodwin, Watermark Marine Systems LLC, Agent for Michael Sullivan, Owner, via Zoom, stated the property has a residence which is partially within the shoreline setback zone; a wetlands permit has been received from NH DES to remove the dock, piling, deck and structure, leaving only the shed which is behind the 50' setback. Mr. Goodwin stated a permit was received to construct a two-bay boathouse. He explained the Sullivan's primary summer residence is located to the north of the property and the location of the boathouse would be well outside the 20' setback of the abutters. Mr. Goodwin stated the access would be on the same side as the Sullivan's residence. He

stated the proposed conditions include a dewatering system to be restored and explained this project falls under the wetlands permit so no shoreline permit is required from NH DES. He stated if a residence were to ever be constructed on this lot, it would have to be behind the 50' setback. Mr. Rich confirmed the proposal is to make the property more conforming although the boathouse is not under the jurisdiction of the Board; the original house being removed is in the nonconforming area and any future home on the property would have to be behind the 50' setback. Mr. Goodwin confirmed that is correct; in terms of setbacks this project meets all the zoning requirements although it will not have a residence on the property. Chair Monzione stated he isn't sure how a dug-in boathouse can be permitted as a non-inhabitable structure as the primary structure on a lot. He also referenced the building materials and visual compatibility requirements. Mr. Goodwin suggested that since this property is on an island, and the primary mode of access is a boat, a boathouse is like a garage.

Mr. Rich noted there is no comment received from the Conservation Commission. Mr. Goodwin stated because there is a wetlands permit, a comment period is built in to that process at this time the Conservation Commission has 40 days to comment and no comments were received that he is aware of.

Chair Monzione opened the Public Hearing to input in support of the application being granted. None was indicated. He then opened the Public Hearing to input in opposition of the application being granted. None was indicated. Chair Monzione closed the Public Hearing to public input.

Discussion:

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

Mr. Rich stated that a plat/plan **has** been submitted in accordance with the Zoning Ordinance, Section 520B and a recommendation has been made. The Board agreed.

Chair Monzione stated the specific site **is** an appropriate location for the use. He stated it was helpful to see photographs showing where the structure would be located on the shore. The Board agreed.

Mr. LaRochelle stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. Mr. Rich suggested it is adding value. The Board agreed.

Mr. Lee stated there **is no** valid objection from abutters based on demonstrable fact. 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. The Board agreed.

Chair Monzione stated adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure. He stated this structure will not have any plumbing. The Board agreed.

Mr. LaRochelle stated there is adequate area for safe and sanitary sewage disposal and water supply. He stated this does not apply in this case as it is a non-inhabitable structure. The Board agreed.

Mr. Rich stated the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. LaRochelle made a motion to grant the request for Special Exception for Case #20-07 as proposed. Mr. Lee seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monzione – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Case #Z20-08 Genevieve Michaud, Agent for Scott Michaud, Owner	915 Suncook Valley Road Map 2 Lot 15	Special Exception Rural (RU) Zone
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A **Special Exception** is requested from **Article 400, Section 401. D. 41.** of the Zoning Ordinance to permit the operation of a baker/café in the Rural Zone.

Chair Monzione confirmed the applicants were present via Zoom.

Chair Monzione read the case into the record. The Board reviewed the application for completeness.

Mr. Lee made a motion to accept the application for Case #Z20-08 as complete. Mr. Lee seconded the motion. Motion passed, 4-0-0.

Genevieve Michaud, applicant, stated she is the owner of Baked, Brewed and Organically Moo'd and the business which is applying for the exception. She stated the property was built in 1945 and used as a commercial property since it was built. Chair Monzione asked if Baked, Brewed and Organically Moo'd is a legal entity; Ms. Michaud confirmed it is an LLC and Scott Michaud is the property owner. Chair Monzione explained that if the exception is granted, it would be to Mr. Michaud, the property owner not the business and run with the land.

Chair Monzione confirmed this applicant were reviewed by the Police, Fire and Highway Department. It was noted the Fire Department has request they review the plans when available. Mr. Rich asked if the septic design has been completed. Mr. Michaud confirmed an application is on file with NH DES for a system that will accommodate a 15 seat restaurant but they are working with a designer to refresh the design. Mr. Rich confirmed if this is approved, it would be no more than 15 seats. Ms. Michaud confirmed that is correct. Mr. LaRochelle asked what upgrades are planned with regards to smoke and carbon monoxide detectors. Ms. Michaud stated they haven't moved forward with

that yet; there will be many upgrades needed and anything required will be installed. She stated the access permit has been received from the State of NH DOT. Chair Monziona confirmed there is a septic on file but a new design will be needed; he noted a letter was received from Carol Locke indicating concerns about septic design and upgrades as there is currently a drywell on the property which has run into her property in the past. Ms. Michaud confirmed a plan is on file but never installed and a new septic design will be done as the current system cannot accommodate a café. Mr. Michaud explained there is currently a two-bedroom septic on the property; when it was inspected at the time they purchased it, it was rated as fair and is a pipe and stone system and noted to be pumped and clean although it is fully functioning at this time. Chair Monziona asked if the system on file at Town Hall, is designed for a two-bedroom residential structure. Mr. Dever clarified it was for a residential structure as well as a 15 seat restaurant. Ms. Michaud confirmed that is what they plan to build. Mr. Lee confirmed the file at Town Hall is an old file and would be redesigned to today's standards. Mr. Dever replied its 20 years old and would be updated. Mr. Rich stated a new septic design would have to go to NH DES as the old file has expired. Chair Monziona asked if the well would accommodate the use and provide an adequate supply of water. Mr. Michaud stated a new ell was installed in 2006; he stated the property was previously a gas station and research indicates tanks were removed and NH DES confirmed the ground was clean. He stated they tested the water and it all tested clean. It was confirmed the well could adequately supply the water needs of the restaurant and residents. Mr. Dever stated this would also require a Site Plan with the Planning Board.

Chair Monziona opened the Public Hearing to input in support of the application being granted.

Michael Raymond, abutter, asked what Mr. Michaud was told by NH DOT about road access onto Route 28; he explained the intersection will be redone in the near future. He stated he is in favor of the proposed plans but is concerned about the future plans of Route 28. Mr. Michaud replied they worked extensively with DOT in the driveway design. He stated the Route 28 access point would only be an entrance, not an exit, which will be onto Prospect Mountain Road where there is better visibility and line of sight. Mr. Michaud stated no specifics of the NH DOT plans for the intersection were shared with them.

William O'Neil, abutter, stated he is in favor of the café.

Chair Monziona then opened the Public Hearing to input in opposition of the application being granted. None was indicated. Chair Monziona closed the Public Hearing to public input.

Chair Monziona asked how they would ensure traffic does not exit the entrance. Ms. Michaud explained there will be signs and the direction of traffic will be clear. Mr. Michaud stated there would be a barrier along the property line and Route 28 to prevent people from pulling into the parking lot where they should not be. Chair Monziona stated they also need to ensure there are no hazards created for pedestrians as well. Mr

Discussion:

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

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

Mr. LaRochelle stated the specific site **is** an appropriate location for the use. It was previously a gas station as well as a residential property, and will remain partially a residential property. The Board agreed.

Mr. Lee stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. Mr. Rich stated this will add to the values in the district. The Board agreed.

Mr. Rich stated there **is no** valid objection from abutters based on demonstrable fact. He stated the objection regarding the septic system is moot as this point as a new system will be installed before the café is opened. The Board agreed.

Chair Monzione 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 he had the most concern with this issue but based on the fact that NH DOT has examined this and granted permission for the driveway to be used at the location on Route 28 then he is going to rely on their plans. The Board agreed.

Mr. LaRochelle stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. He stated a new septic design would be designed and installed; the well is fairly new. Mr. Rich stated the applicant would be spending a considerable amount of money to upgrade the utilities for the betterment of the property and proposed use. The Board agreed.

Mr. Lee stated there **is** adequate area for safe and sanitary sewage disposal and water supply. The Board agreed.

Mr. Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Rich suggested the following conditions with granting the Special Exception: the entirety of the NH DOT permit plans be completed on the site and the septic system is updated, installed and approved by NH DES.

Mr. Rich made a motion to grant the request for Special Exception for Case #20-08 as proposed with the following conditions: the entirety of the NH DOT permit plans and requirements for the driveway be completed on the site and the septic system is updated, installed and approved by NH DES. Mr. LaRochelle seconded the motion.

Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monziona – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Case #Z19-25 and Z19-26 Richard J. Fiore, Jr., Richard J. Fiore, Sr., & Arlene M. Fiore, Owners	19 Depot Street Map 27 Lot42	Special Exception Rural (RU) Zone / Variance Rural (RU) Zone
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Chair Monziona asked if the applicant is available to present these cases. It was confirmed no one was present via Zoom or at Town Hall to present either case. Chair Monziona confirmed this would be the third continuance for the cases. Mr. Rich stated the applicant has had adequate opportunity to present and this is a second no-show. Mr. Dever confirmed the Planning Office contacted the applicant by phone with messages left; no responses were received. Chair Monziona noted the applicant was present for three meetings prior to the COVID-19 restrictions being in place; the application was not accepted due to the Board of Selectmen not having been notified, as abutters. The Board discussed whether to dismiss the cases or review and rule on the cases without input from the applicant. It was agreed Board members have many questions and concurred with dismissing the cases. I

Mr. Lee made a motion that Cases #Z19-25 and Z19-26 be dismissed. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monziona – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Case #Z20-02 Thomas Varney, P.E., Varney Engineering, Agent for Geraldine Gaeta & Jonathan Paine, Owners	64 Barbara Drive Map 71 Lot 21	Special Exception Rural (RU) Zone
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Chair Monziona confirmed Mr. Morgan has not joined the meeting and asked Mr. Varney how they want to proceed. Mr. Varney replied they would like to continue the case so they can have more than three members hear the case.

Mr. Rich made a motion to continue Case #Z20-02 to the next meeting, July 2, 2020, at the request of Mr. Varney as there are only three members available to hear the case. Mr. Lee seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monziona – aye; Mr. LaRochelle – abstained. Motion passed, 3-0-1.

OTHER BUSINESS

1. Previous Business:

- a. Discussion on the results of Town Meeting decisions, re: Planning Board's Warrant Articles.

The Board reviewed the Zoning amendments which were approved at Town voting in March.

2. New Business:

- a. Planning Department's new Facebook page: Alton, NH Planning Department.

Mr. Dever stated the page has been set up for putting information out to the public; commenting is now allowed. Mr. LaRochelle stated he finds it helpful for getting out the correct information to the public.

- 3. Approval of Minutes:** ZBA meeting minutes of March 5, 2020 – No edits were made.

Mr. Lee made a motion to approve the minutes as written. Mr. LaRochelle seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monzione – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

- 4. Vote on Zoning Amendment Committee (ZAC) Members- See attached ZAC By-Laws**

The Board discussed the appointment of Zoning Board of Adjustment representatives to the Zoning Amendment Committee. It was clarified the Board of Selectmen representative is only for breaking a tie vote.

5. Election of ZBA Officers

Mr. LaRochelle made a motion to nominate Frank Rich as the Chair of the Zoning Board of Adjustment. Mr. Lee seconded the motion. Roll Call Vote: Mr. Lee – aye; Mr. Rich – aye; Chair Monzione – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Mr. Monzione made a motion to nominate Tom Lee as the vice chair of the Zoning Board of Adjustment. Mr. Rich seconded the motion. Roll Call Vote: Mr. Lee – aye; Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

Mr. Monzione made a motion to nominate Paul LaRochelle as the clerk of the Zoning Board of Adjustment. Chair Rich seconded the motion. Roll Call Vote: Mr. Lee – aye; Chair Rich – aye; Mr. Monzione – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

NEXT MEETING

July 2, 2020, 6:00pm, Alton Town Hall

ADJOURN

Mr. Monzione made a motion to adjourn. Mr. LaRochelle seconded the motion. Roll

Call Vote: Mr. Lee – aye; Chair Rich – aye; Mr. Monziona – aye; Mr. LaRochelle – aye. Motion passed, 4-0-0.

The meeting was adjourned at 8:35pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary