

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Thursday, July 1, 2021, at 6:00 P.M.
Alton Town Hall**

MEMBERS PRESENT

Thomas Lee, Chairman
Paul Monziona, Vice Chair
Frank Rich, member/clerk
Paul LaRoche, Selectman's Representative – excused absence
Tim Morgan, member
Mike Hepworth, alternate member – via Zoom

OTHERS PRESENT

John Dever, III, Code Enforcement Officer – via telephone
Ted Wright, White Mountain Survey and Engineering Inc.
Jacob Dube, Headwall Construction

CALL TO ORDER

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

INTRODUCTION OF BOARD MEMBERS

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

APPOINTMENT OF ALTERNATES

Mr. Monziona made a motion to appoint Mr. Hepworth to serve as a full member of the Board for this meeting. Mr. Rich seconded the motion. Motion passed, 5-0-0.

Chair Lee read the following statement into the record:

Restrictions on public gatherings from "in-person" meetings to "remote audio only participation meetings", in regards to the COVID-19 State of Emergency, have been rescinded. The Board will hold in-person meetings only. You may contact the office at plansec@alton.nh.gov, or by telephone at (603) 875-2162 between 8:00 A.M. - 4:30 P.M., Monday – Friday, with any questions or comments.

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.

APPROVAL OF AGENDA

The Board reviewed the agenda. No changes were made.

Mr. Rich made a motion to approve the Agenda as presented. Mr. Morgan seconded the motion. Motion passed, 5-0-0.

NEW APPLICATIONS

Case #Z21-17 White Mountain Survey & Engineering, Inc., Agent for Rosenthal Family Trust, Laura Hrasky & Robert P. Goldman, Trustees	76 Shore Rd. Map 18 Lot 36-3	Variance Lakeshore Residential (LR) Zone
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A **Variance** is requested from **Article 400, Section 412.B.1.b** of the Zoning Ordinance to permit the creation of a new lot of record, through a boundary line adjustment, that does not meet the current frontage requirements in the Lakeshore Residential Zone.

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

Mr. Morgan made a motion to accept the application for Case Z21-17 as complete. Mr. Rich seconded the motion. Motion passed, 5-0-0.

Mr. Rich stated he lives on Tranquility Lane which abuts Shore Road and wants the applicant to be aware. Applicant's representative acknowledged Mr. Rich and stated that is fine.

Ted Wright, White Mountain Survey and Engineering Inc., agent for Rosenthal Family Trust, Laura Hrasky & Robert P. Goldman, Trustees, stated this came about as they were doing a boundary survey for the Coutures and it was discovered that the deck and steps encroached on to the neighbor's property. To rectify it, they are proposing to adjust the boundary but it would create a new lot. When this lot was originally created, it was part of a subdivision but it is now considered a substandard lot as the frontage on the lake is only 120'. If the boundary line is moved, the lot configuration is changed and would be looked at as a new lot by the Town. Mr. Monziona confirmed the boundary line adjustment creates two new lots and would then be subject to the current zoning which is 150' of lake frontage. Mr. Wright confirmed the Coutures lot would still have over 150' lake frontage although it is nonconforming. Mr. Monziona confirmed the deck and stairs are encroaching into the neighboring lot; the boundary line adjustment will eliminate that; both lots are nonconforming. Mr. Wright stated setbacks will be met; he stated he was told the stairs do not have to meet the setback. Mr. Dever confirmed that is correct; these are ground level stairs and are considered access and are not subject to the setback.

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

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

Chair Lee closed public input.

It was clarified the variance is only being requested for the Rosenthal Family Trust property.

Discussion – Case #Z21-17

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

Mr. Monziona stated granting the variance **would not** be contrary to the public interest. He stated the lot adjustment does not affect any others nor the zoning of the lot. The Board agreed.

Mr. Hepworth 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. The Board agreed.

Mr. Rich stated that by granting the variance, substantial justice **will be** done. He stated the applicant is looking to improve the property and eliminate the encroachment onto another property. Mr. Morgan stated the benefit to the applicant far outweighs any detriment to the public. Mr. Monziona stated it is solving an encroachment concern and is not creating any additional non-conformities. The Board agreed.

Mr. Morgan stated the values of surrounding properties **will not be** diminished. He stated this is a minor lot line adjustment. The Board agreed.

Chair Lee 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.

Chair Lee stated the proposed use is reasonable. Mr. Monziona stated 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. The Board agreed.

Mr. Rich made a motion to grant the request for a Variance for Case Z21-17. Mr. Morgan seconded the motion. Motion passed, 5-0-0.

<p>Case #Z21-18 Headwall Construction- Jacob Dube Agent for Jake & Jenna O'Brien, Owners</p>	<p>514 Rattlesnake Island Map 79 Lot 34</p>	<p>Variance amended 6/23/21 Special Exception Lakeshore Residential (LR) Zone</p>
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A **Special Exception** is requested from **Article 300, Section 320** of the Zoning Ordinance to permit the voluntary rebuild of current structure within 30 ft. of the shoreline setback.

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

Mr. Morgan made a motion to accept the application for Case Z21-18 as complete. Mr. Rich seconded the motion. Motion passed, 5-0-0.

Jacob Dube Headwall Construction, Agent for Jake & Jenna O'Brien, Owners, stated they are looking to demolish the existing house and rebuilt a house. He stated 140 square feet of footage would be removed that is encroaching on the 30' setback; a small portion of the house would remain in the setback along with the deck but it is still less than the amount currently encroaching. Mr. Dube stated the proposed new home is fitting for the area. He stated the current house has no foundation and is on piers; the new home will be on new piers as well. Mr. Monziona asked if the structure could be moved back or reconfigured in order to be within the ordinances. Mr. Dube stated the way it is position now is to balance moving it back; he stated it gets very steep if they start moving back and he believes it would make it appear towering as it would 10' to 15' higher.

Chair Lee noted the current structure has no bedrooms and the proposed plans are for a two bedroom home. Mr. Dever stated the current structure has a loft area but it is not specifically a bedroom. It was confirmed that the proposed plans do not make the lot more nonconforming; the expansion will be within the building envelope. Chair Lee confirmed a new NH DES approved septic system was installed; Mr. Dube stated he is not sure the exact date of installation.

Mr. Rich asked if there is a need for shoreline permits from NH DES. Mr. Dube stated a Shoreline Permit was approved and received in 2018.

Mr. Dever confirmed the Shoreline Permit is approved for the work proposed and there is a valid state septic approval.

The Board discussed the definition of a bedroom; Mr. Dever stated the RSA does not specify and explained the minimum size of septic system is two bedrooms. It was noted there is no specific definition in the ordinance other than to indicate it being a room used for sleeping.

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

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

Chair Lee closed public input.

Discussion – Case #Z21-18

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

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

Mr. Rich stated the specific site **is** an appropriate location for the use. He stated the applicant is improving a seasonal home; the use is not changing. The Board agreed.

Mr. Morgan stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated there has been no evidence presented to indicate values would be reduced. The Board agreed.

Chair Lee stated there **is no** valid objection from abutters based on demonstrable fact. No abutters came forward and no letters or communications in opposition were received. The Board agreed.

Mr. Monziona 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. There is adequate parking. The Board agreed.

Mr. Hepworth 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. Rich stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated the applicant has submitted plans for a safe and sanitary sewage disposal system to NH DES. The Board agreed.

Mr. Morgan 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. Monziona made a motion to grant the request for a Special Exception for Case Z21-18. Mr. Morgan seconded the motion. Motion passed, 5-0-0.

Case #Z21-19 Bill & Barbs Cottages on the Bay Bill & Barbara Toothaker	27 Torelli Terrace Map 33 Lot 29-1	Special Exception Lakeshore Residential (LR) Zone
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A **Special Exception** is requested from **Article 320, Section G & H.3** of the Zoning Ordinance to permit the expansion of a non-conforming structure, for a nonconforming use beyond existing elevations.

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

Mr. Morgan made a motion to accept the application for Case Z21-19 as complete. Mr. Rich seconded the motion. Motion passed, 5-0-0.

Bill & Barbara Toothaker, applicant, stated they have an existing two bedroom house; there is an existing crawlspace underneath the structure but that has created some problems with moisture which has led to rotting in the house. He stated they also have an infestation of squirrels. Mr. Toothaker stated he would like to lift the house so the space can also be utilized; the footprint will remain the same as the existing foundation would be used by bringing it up past the ground level. From there it would be stick built. There will be no excavation work as the foundation is already at ground level.

Mr. Morgan confirmed the nonconformity is that there are four other cabins on the property. Mr. Toothaker stated the setback from the property line also nonconforming. Mr. Dever stated the nonconformity is for the use which is multi-dwelling lot, which is not permitted.

Mr. Monziona noted there is a letter from the Conservation Commission which indicates there is no justification for making the nonconforming lot more nonconforming. Mr. Morgan stated that should be a decision of the ZBA as to whether something is nonconforming. Mr. Monziona

stated he doesn't see anything which is becoming more nonconforming.

Mr. Rich confirmed the building would be raised, the foundation built up, the house lowered and placed back on the foundation. Mr. Toothaker stated the land behind the house is in conservation so there would be no impact due to the height.

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

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

Chair Lee closed public input.

Discussion – Case #Z21-19

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 appropriate criteria in the Zoning Ordinance, Article 520.B. The Board agreed.

Mr. Morgan stated the specific site **is** an appropriate location for the use. He stated the use is not changing. The Board agreed.

Chair Lee 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 value will increase with the proposed structure. The Board agreed.

Mr. Monziona stated there **is no** valid objection from abutters based on demonstrable fact. No abutters came forward and no letters or communications in opposition were received. The Board agreed.

Mr. Hepworth 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. There is adequate parking. He stated the footprint remains the same. 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 the applicant is only raising the structure to put a foundation under it; the facilities and utilities are already in place. The Board agreed.

Mr. Morgan stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated there is no change to these. The Board agreed.

Chair Lee 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. Monziona made a motion to grant the request for a Special Exception for Case Z21-19. Mr. Morgan seconded the motion. Motion passed, 5-0-0.

Mr. Rich stated he has been concerned over the last couple of meetings in regards to the comments made from the Conservation Commission. He asked if they could have an opportunity to speak with the Conservation Commission chair; he stated the comments seem to be unconstructive, particularly where something is nonconforming and the comments are to avoid it remaining nonconforming. Mr. Rich stated he doesn't understand the reasoning. Chair Lee stated he will discuss this with Mr. Dever to see if this can be addressed appropriately. He agreed the comments should be in regards to whether water lines are moved, it should be in line with their department, etc. Mr. Monziona stated he hasn't had any issue with the comments as the Commission has different goals, etc., and are reflected in comments. He stated there may be a failure of communication or improper interpretations of comments.

OTHER BUSINESS

1. Previous Business:

- a. Update from the Chairman/announce upcoming town-wide survey*

Chair Lee stated this survey has been ongoing; post cards were mailed out. Mr. Monziona stated he is on the Master Plan Committee; he explained a big part of the plan is to find out what people in Town think and encouraged everyone to respond to the survey.

b. Alternative Housing Committee: Update from the Chairman

Mr. Rich stated the committee has developed three sections to look at, including tiny homes that have a foundation, tiny homes that are mobile, and cabin colonies. He stated much of the discussion is going towards open space conservation and to allow development but maintain buffers zones. He stated they also discuss planning “clusters” to reduce the infrastructure costs and make them more affordable. Mr. Rich stated a lot of input has been received from communities in New Hampshire, Maine and Massachusetts who have already gone through this. They have also been working on developing limitations for tiny homes.

2. New Business:

None.

3. Correspondence:

None.

4. Approval of Minutes

Meeting of May 6, 2021 – No edits were made. **Mr. Monziona made a motion to approve the minutes as presented. Mr. Morgan seconded the motion. Motion passed, 5-0-0.**

ADJOURN

Mr. Morgan made a motion to adjourn. Mr. Rich seconded the motion. Motion passed, 5-0-0.

The meeting was adjourned 7:20PM.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary