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2
3 **TOWN OF ALTON**
4 **ZONING BOARD OF ADJUSTMENT**
5 **PUBLIC HEARING MEETING**
6 **Thursday, July 10, 2025, at 6:00 PM**
7 **Alton Town Hall**

8 **MEMBERS PRESENT**

9 Frank Rich, Chair
10 Tom Lee, Vice Chair
11 Tim Morgan, Clerk
12 Paul Monzione, Alternate Member
13 Paul LaRochelle, Member & Selectman's Representative
14

15 **OTHERS PRESENT**

16 Tom Varney Joshua Thibeault
17 Paul Zuzgo Jeremy Martin
18 Joe Berry Dick Shea
19 Beverly DeMille
20

21 **CALL TO ORDER**

22 Chair Rich called the meeting to order at 6:00 PM.
23

24 **APPOINTMENT OF ALTERNATES**

25 **Mr. LaRochelle MOVED to have Mr. Monzione sit as a full member for this meeting.**
26 **Seconded by Mr. Lee.**
27 **Chair Rich asked the board for a vote. (4-0-0)**
28

29 **STATEMENT OF THE APPEAL PROCESS**

30 The purpose of this hearing is to allow anyone concerned with an Appeal to the Zoning Board of
31 Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an
32 opinion rather than an established fact, however, it should support the grounds that the Board must
33 consider when making a determination. The purpose of the hearing is not to gauge the sentiment
34 of the public or to hear personal reasons why individuals are for or against an appeal, but all facts
35 and opinions based on reasonable assumptions will be considered. In the case of an appeal for a
36 Variance, the Board must determine facts bearing upon the five criteria as set forth in the State's
37 Statutes. For a Special Exception, the Board must ascertain whether each of the standards set forth
38 in the Zoning Ordinance have been or will be met.
39

40 **APPROVAL OF AGENDA**

41 Mrs. Ditri stated the equitable waiver for Case Z25-28 will be for Section 327.A.
42 She also noted that Changing Seasons Engineering has requested to continue Case #Z25-12.
43

44 **Mr. Monzione MOVED to approve the agenda as amended.**
45 **Seconded by Mr. Morgan.**
46 **Chair Rich asked the board for a vote. (5-0-0)**

1. CONTINUED APPLICATION FROM APRIL 7, 2025
REQUEST TO CONTINUE UNTIL 8/7/2025 PER APPLICANT

Case #Z25-12 Changing Seasons Engineering, PLLC, Stephanie Richard, Agent for Richard Lundy, Owner	Map 15 Lot 9-3-1 Miramichie Hill Road	Special Exception Residential Rural Zone (RR)
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A **Special Exception** is requested for Article 400 Section 401.D.17 to permit a Contractor's Yard.

Mr. Monzione recused himself from this case.

Mr. Morgan stated that this case began in March and questioned how many times it will be continued.

Chair Rich confirmed it is the third time this case has been continued. He stated the Board has to either grant the request to continue or tell the applicant they will need to reapply.

Mr. LaRochelle asked if there was any reason given for the continuation request.

Mrs. Ditri answered that it is taking the applicant longer than expected to get the plans together for planning and zoning.

Mr. Morgan stated that he believes this case is sensitive with regard to the abutter issue and thinks that this has been going on for so long the abutters may have lost track of the case. Therefore, he recommends the Board deny the continuance and ask them to reapply.

Mr. LaRochelle agreed stating typically on the third continuance the Board requests the applicant reapply.

Mr. Lee questioned if the Board were to continue the case, could they ask the applicant to renotify the public?

Mrs. Ditri clarified that if the applicant has to reapply, the public would be notified as part of the application process.

Mr. Lee stated that he concurs with the other Board members that the application process should start over.

Mr. Morgan MOVED to deny the request for a continuation of application Z25-12.

Seconded by Mr. Lee.

Chair Rich asked the board for a vote. (4-0-0)

2. NEW APPLICATIONS

Case #Z25-25 Berry Surveying & Engineering, Joseph Berry, Agent for Tyler & Douglas Ladebauche, Owners	Map 50 Lot 13 5 Loon Cove Road	Variances Lakeshore Residential (LR) Zone
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1. A **Variance** is requested from **Article 320 Section E.2** to allow the replacement and expansion of a non-conforming structure.
2. A **Variance** is requested from **Article 327 Section A.1** to allow a structure to be within the 30' lake setback.

Mr. Joe Berry came to the table to present the case.

Mr. Morgan asked Mr. Berry if he had seen the comments from the Conservation Committee. Mr. Berry replied yes.

Mr. Monzione asked if there was an agent letter and abutter list with the packet? The rest of the Board confirmed they were included in the packet.

Mr. LaRochelle MOVED that application Z25-25 was COMPLETE.

Seconded by Mr. Monzione.

Chair Rich asked the board for a vote. (5-0-0)

Mr. Berry introduced himself and began describing this non-conforming lot as a .27 acre lot with 84.98 feet of frontage. On this lot is an existing non-conforming structure down by the lake with a State approved septic system. On the existing driveway there is an easement bysecting the lot to get to the abutting lot to the north over the existing driveway. The non-conformity of the existing structure is that it is within the 10 foot side setback and also the 30 foot water body setback. Tyler & Douglas Ladebauche would like to tear down the existing structure and rebuild a new house that meets the side setback and is rotated in a way to get more out of the 30 foot water body setback. This plan would require submission to NHDES Shoreland which is included in the packet submitted. This would also require a new septic design to be submitted for the new house. Sheet one of the plan set is a new complete boundary survey. Sheet two is the ZBA Plan with the existing on top and the proposed on bottom, with the colored areas representing the house and decks. Due to the increase in the size of the new structure, replacing the non-conforming structure cannot be done with a special exception. They are requesting two variances: One to Article 327 Section A.1 which is the 30 foot water setback and second is to Article 320 Section E.2 to permit the replacement of a non-conforming structure that has an increase in square footage.

Mr. Monzione stated that Article 320 Section E.2 allows for replacement of an existing non-conforming structure by special exception not variance.

Mr. Berry responded that this does not fall under special exception due to the increase in square footage of the replacement structure. Therefore, a variance is needed to get this project done.

Mr. Monzione questioned if this falls under Article 320 Section E.2 which is for specifically a special exception process which has specific approval criteria however you are looking for a

129 variance to construct a new non-conforming building from scratch. To tear down and rebuild a pre-
130 existing non-conforming building would be covered by the special exception rules. You would
131 need a variance to construct a new non-conforming building as if the existing building does not
132 exist.

133

134 Mr. Berry explained that he had originally applied for a special exception and the Town told him
135 he did not meet the criteria due to the square footage of the house. The Town requested he apply
136 for a variance instead. Essentially, he is putting up a non-conforming structure with these two
137 variances.

138

139 Mr. Monziona asked if Article 320 Section E.2 is applicable given that the application includes that
140 as the basis or is it not applicable so a variance is requested?

141

142 Mr. Berry requested Mrs. Ditri explain as she had talked with Town counsel regarding this.

143

144 Mrs. Ditri stated that the guidelines talk about not being able to get a variance from a requirement
145 of a special exception. This section mentions a special exception that does not have any list of what
146 is required. She did not believe that you could get a variance from the replacement section that
147 says within it by special exception. Our legal counsel said a variance from that section can be
148 allowed.

149

150 Mr. Monziona responded that he is unsure what that means. The issue is we are not going to apply
151 the special exception criteria to this application, we are going to apply the variance criteria. We are
152 not seeking to provide any decision based on zoning ordinance Article 320 Section E.2. The fact
153 that it is identified as an application under that section should be changed. We are also looking at a
154 variance under Article 327 Section A.1 for the 30 foot setback and question which ordinance is this
155 variance being sought under? Article 320 Section E.2 is for special exceptions.

156

157 Mrs. Ditri answered that she was instructed to ask for a variance to Section E.2.

158

159 Mr. Monziona asked if the lawyer is the one who instructed her to do this? Mrs. Ditri responded
160 yes.

161

162 Chair Rich asked if there was an email from the attorney? Mrs. Ditri responded she was in
163 communication with Mr. Berry throughout the process so she believes the application has the
164 appropriate sections.

165

166 Mr. Monziona stated that he feels it is okay to proceed, however he thinks the record should be
167 clear under what authority the application is being presented and whether it is under a zoning
168 ordinance that applies to a variance as opposed to one that applies to a special exception. In this
169 case, it has been determined a special exception is not applicable to this non-conforming structure
170 because the new one is being expanded beyond what a special exception might allow. Therefore, it
171 is in the variance category. The appropriate zoning ordinance to bring the application under should
172 be identified for the record.

173

174 Mr. Berry responded that his understanding was that they now meet the side setback requirement
175 and only need the variance to the 30 ft waterfront setback. This application is being presented in
176 accordance with what the Town's legal counsel said to do.

177
178 Mr. Monzione asked if the new structure will meet all zoning requirements except for the
179 waterfront setback. Mr. Berry responded yes.

180
181 Mr. Monzione confirmed since this is an existing lot there is no need to seek variances based on
182 road frontage or size of lot.

183
184 Mr. Monzione asked how far into the lake setback will the structure be?

185
186 Mr. Berry responded about 16 feet. The back deck will be 14.2 feet off the lake front. He then
187 instructed the Board to the plan pointing out that a portion of the corner of the house and back deck
188 will be within the 30 foot setback.

189
190 Mr. Monzione stated that it doesn't necessarily matter what the difference in square footage is and
191 noted that the new structure will be less non-conforming than the existing structure. He asked how
192 much square footage is going to be within the lake setback?

193
194 Mr. Berry answered the existing structure has 386 square feet within the setback and the new
195 structure has 240 square feet. He noted as a whole the non-conformity is getting smaller.

196
197 Mr. Berry addressed the five criteria for Article 327 Section A.1 30 foot water body setback.

198
199 1. **Granting of the variance would not be contrary to the public interest:** The public
200 interest with respect to these sections are to ensure that there is no overcrowding of each lot
201 within the area and protection of the surface water to the extent possible. As can be seen in
202 the ZBA plan the proposed encroachment is further from the reference line than the
203 existing structure currently on the lot with the total square footage of the non-conformity
204 being decreased. The general public interest test is measured and compared to the idea of
205 the project markedly changes the essential character of the neighborhood. In this case the
206 lot already contains an existing structure and the proposed replacement will not change the
207 character of the neighborhood. On the contrary, the new structure will be more conforming
208 to current zoning requirements than the existing one thereby promoting the intent of the
209 zoning ordinance.

210
211 Mr. Lee questioned the height difference between the existing and new structure. Mr. Berry
212 responded the front face of the house would be 26 feet to the peak of the roof. Unfortunately he did
213 not have the measurement for the existing house. He directed the Board to the pictures in the
214 packet which show two stories therefore he estimated it would be about the same height.

215
216 Mr. LaRochelle asked if the existing home has a walk out basement Mr. Berry responded no it does
217 not, it has a basement crawl space which cannot be accessed from inside the house.

218

219 Mr. Lee stated that the footprint doubled. Mr. Berry said that was true with the overhang and
220 decks.

221

222 Mr. Lee clarified that his concern with the height was the abutters.

223

224 Chair Rich asked if there was any abutter that would have their view restricted by the new
225 structure. Mr. Berry said not that he is aware of and referenced the location of the abutters on the
226 plan.

227

228 Chair Rich asked if either Mr. Berry or the applicant have discussed the new structure with the
229 abutters. Mr. Berry said he has not and is not aware of any conversations with the applicant.

230

231 Chair Rich explained that the Board prefers the applicant to have a discussion with the abutters on
232 what they plan to do so there are no surprises from the abutters to the applicant or the Board. This
233 is not mandated.

234

235 The applicant's builder Jesse Linland from Outside In Construction joined Mr. Berry at the table to
236 speak regarding the height concern. He stated that the street borders this lot and given the steep
237 elevation there will be no view obstruction. He also provided the height difference between the
238 structures with the new structure being 8 feet taller than the existing.

239

240 Mr. Monziona confirms again that the only setback not being met is the water body setback.

241

242 2. **Granting of the variance would be within the spirit of the ordinance:** The spirit of the
243 ordinance is to ensure uniformity with abutting lots as they pertain to space and bulk to
244 both the side line setback and the reference line setback. As such the proposal upholds the
245 intent and spirit of the ordinance by improving the alignment with zoning standards and
246 improves the health, safety and welfare of the general public.

247 3. **Granting of the variance would do substantial justice:** The benefit to the applicant far
248 outweighs any potential detriment to the ordinance by allowing the applicant to build a new
249 reasonably sized home that will more nearly conform than the existing structure. The sites
250 stormwater quality is also improved with the implementation of low impact development
251 devices which is inline with the NHDES Shoreland Program.

252 4. **Granting of the variance will not result in diminution of surrounding property values:**
253 The surrounding property values will not be diminished in value by the construction of the
254 new home. The lot is already fully developed and the use is within the zoning district.
255 Replacing the existing structure with a reasonably sized more conforming home will
256 enhance the overall appearance and consistency of area thereby maintaining neighborhood
257 property values.

258 5. **Special conditions exist such that little enforcement of the ordinance will result in**
259 **hardship to the applicant as defined under applicable law:** This parcel presents a special
260 condition due to it's existing non-conforming status and the placement of the current non-
261 conforming structure in relation to the reference line. The lot is also bisected by an existing
262 right of way which limits the available building area. There is no reasonable alternative to
263 this request and therefore denial would cause an unnecessary hardship to the applicant. The

use is a reasonable one as this use is permitted in the zone and is more nearly conforming than the existing state.

Mr. Lee asks where the right of way is. Mr. Berry shows on the map.

Mr. LaRochelle asked if it were actively used. Mr. Berry says he is not sure however if someone has a legal right of way it should be maintained.

Chair Rich thanks Mr. Berry for a job well done with the description of the five criteria.

Chair Rich opened public input in favor of application; no one came to the table.

Chair Rich opened public input in opposition of application; no one came to the table.

Chair Rich closed public input and directed the Board to the worksheet.

For the variance of Article 327 Section A.1

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

Mr. Lee stated granting the variance would not be contrary to the public interest. He added that it will have a positive impact making it less non-conforming. Mr. LaRochelle agreed. Mr. Morgan agreed. Mr. Monzione agreed. Chair Rich agreed. (5-0-0)

Mr. LaRochelle stated the request is in harmony with the spirit of the zoning ordinance and the intent of the Master Plan with the convenience, health, safety and character of the district within which it is proposed. He added this aligns with the Master Plan and coincides with the neighborhood. Mr. Morgan agreed. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. (5-0-0)

Mr. Morgan stated that by granting the variance, substantial justice will be done. The benefit to the applicant far outweighs any detriment to the people of the Town of Alton. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed. (5-0-0)

Mr. Monzione stated the values of surrounding properties will not be diminished. There has been no evidence presented that would indicate values would be diminished. He noted this will enhance the neighborhood with a nice new structure. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed. Mr. Morgan agreed. (5-0-0)

Chair 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.

Chair Rich stated that the applicant gave evidence of the hardship in terms of lot itself being non-

conforming and feels that both hardship criteria have been met. Mr. Lee agreed. Mr. LaRochelle agreed. Mr. Morgan agreed and added that the hardship in this case is that it is such a small lot. Mr. Monziona agreed adding that this will make the lot less non-conforming and that adhering to the strict lake setback is not justified in this case and the and the proposed use is a reasonable one. (5-0-0)

Mr. Morgan MOVED to APPROVE the application for a variance of Article 327 Section A.1 in case Z25-25.

Seconded by Mr. LaRochelle.

Chair Rich clarified that the applicant still needs to go through septic design and permitting and requested that be added to the motion.

Mr. Morgan revised his motion to include that it would be conditioned upon the applicant applying for and receiving all necessary approvals from DES and Shoreland.

Mr. LaRochelle seconded the revised motion.

Chair Rich called for a vote. (5-0-0)

Chair Rich called to move on to the second variance request of Article 320 Section E.2.

Mr. Monziona questioned which zoning ordinance is this a variance of since he feels this case has nothing to do with the special exception of Article 320 Section E.2.

Chair Rich deferred to Mrs. Ditri to answer. Mrs. Ditri explained last year the Zoning Amendment Committee process dramatically changed non-conforming uses, lots and structures ordinance section. There is one remaining section on non-conforming structures. Under the two structures there is either alteration or replacement. Since this project is a replacement of a non-conforming structure and the one section under non-conforming structure states that you may be able to get a special exception but you cannot change or increase the square footage. This is telling people that they may rebuild their house, however they can not make it any bigger. This is the only place that she felt this case fit.

Mr. Monziona reiterated that this variance does not seem applicable. Mr. Berry clarified that he felt the only variance needed was the waterfront variance, however the Town felt his case did not meet the special exception criteria and wanted a variance for the increase in square footage.

Mr. Monziona gave several examples of how the worksheet would not apply. Mr. LaRochelle stated that non-conforming structures are in Article 320 Section E.2 deals with special exceptions. Mr. Morgan added that almost all of Article 320 deals with special exceptions. Under Section E.3-F states expansion of non-conforming use is allowed with special exception as long as it does not create any additional non-conformities and it allows for the expansion of the structure.

Mr. Monziona questions whether there is another section that discusses replacement of a non-conforming structure with a larger structure. Mrs. Ditri responded that the only ordinance that deals with this is Article 320 Section E.2 and legal counsel has advised that this case will need a special exception. If this Board disagrees with her decision they can vote whether a special

354 exception is needed or not.

355

356 Mr. Monzione stated that he does not feel equipped to grant variances on special exceptions at this
357 time. He feels this applicant has what they need to proceed with the previously granted variance.

358

359 Mr. Morgan said if there wasn't an existing structure the first variance would be all they need.

360

361 Mr. Lee believes that Section E.2 is applicable under special exception. It specifically says
362 replacement of a non-conforming structure may be allowed by special exception. It goes on to say
363 that the replacement of a non-conforming structure voluntarily removed shall be relocated to the
364 extent feasible to reduce the non-conforming aspect. He feels that is the point, although the square
365 footage is going up, the new structure is less non-conforming. Although this is applicable for a
366 special exception, to call it a variance simply evokes chaos.

367

368 Mr. Morgan interprets legal counsel's recommendation of a variance to be pertaining to the part
369 that states square footage shall not be increased.

370

371 After further discussion the entire Board understands the intent of the variance is to make the
372 structure larger and not follow the special exception criteria.

373

374 Mr. Berry said his response to the five criteria for this variance is identical to his response read in
375 the first variance request. The Board agreed it did not have to be re-read.

376

377 Chair Rich opened public input in favor of application; no one came to the table.

378 Chair Rich opened public input in opposition of application; no one came to the table.

379

380 Chair Rich closed public input and directed the Board to the worksheet.

381

382 For the variance of Article 320 Section E.2:

383

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

385

386 Mr. LaRochelle stated granting the variance would not be contrary to the public interest. Mr.
387 Morgan agreed stating the public interest would be to avoid overcrowding these small lake lots and
388 the proposal reduces the non-conformity which is in public interest. Mr. Monzione agreed. Chair
389 Rich agreed. Mr. Lee agreed. (5-0-0)

390

391 Mr. Morgan stated the request is in harmony with the spirit of the zoning ordinance and the intent
392 of the Master Plan with the convenience, health, safety and character of the district within which it
393 is proposed. He added that this is the same rational as the previous variance and is in the spirit of
394 the Master Plan. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed.
395 (5-0-0)

396

397 Mr. Monzione stated that by granting the variance, substantial justice will be done. He added this is
398 a replacement of the non-conforming structure, the prior special exception requirement allowed

399 expansion under very similar circumstances. He does not believe anything being done is in any
400 way contrary to the purpose of our zoning ordinance. Chair Rich agreed. Mr. Lee agreed. Mr.
401 LaRochelle agreed. Mr. Morgan agreed. (5-0-0)

402

403 Chair Rich stated the values of surrounding properties ***will not be*** diminished. There has been no
404 demonstratable fact presented that would indicate values would be diminished and noted since it is
405 a new home the surrounding value would be increased. Mr. Lee agreed. Mr. LaRochelle agreed.
406 Mr. Morgan agreed. Mr. Monzione agreed. (5-0-0)

407

408 Mr. Lee stated that for the purposes of this subparagraph, *“unnecessary hardship” means that,*
409 *owing to special conditions of the property that distinguish it from other properties in the area:*

- 410 i. *No fair and substantial relationship exists between the general public purposes of*
411 *the ordinance provision and the specific application of that provision to the property;*
412 ii. *The proposed use is a reasonable one.*

413

414 Mr. Lee stated that both hardship criteria have been met. Mr. LaRochelle agreed. Mr. Morgan
415 agreed. Mr. Monzione agreed. Chair Rich agreed. (5-0-0)

416

417 **Mr. Monzione MOVED to APPROVE the application for a variance in case Z25-25**
418 **with regard to the variance from the provision prohibiting expansion of square**
419 **footage found in Article 320 Section E.2.**

420 **Seconded by Mr. Morgan.**

421 **Chair Rich clarified that the same condition applies that the applicant still needs to go**
422 **through septic design and permitting and requested that be added to the motion.**

423 **Mr. Monzione revised his motion to include that it would be conditioned upon the**
424 **applicant applying for and receiving all necessary approvals from DES and**
425 **Shoreland.**

426 **Mr. Morgan seconded the revised motion.**

427 **Chair Rich called for a vote. (5-0-0)**

428

Case #Z25-27	Map 74 Lot 37	Variance
Varney Engineering, LLC, Tom Varney, Agent for William & Hillary Dooley, Owners	232 Sleeper Island	Lakeshore Residential (LR) Zone

429 **A Variance** is requested for Article 300 Section 327.A.1 to permit the expansion of a deck partially
430 within the 30' lake setback.

431

432 Mr. Tom Varney came to the table to present the case.

433

434 **Mr. LaRochelle MOVED that application Z25-27 was COMPLETE.**

435 **Seconded by Mr. Morgan.**

436 **Chair Rich asked the board for a vote. (5-0-0)**

437

438 Mr. Varney is accompanied by the owner Mr. William Dooley. He stated this project is on the
439 southerly end of Sleeper Island. The applicant purchased the cottage four years ago and the
440 existing deck on the front is an awkward dimension and has restricted function. The applicant is

441 requesting to square the deck off to a rectangular shape. The existing septic system is State
442 approved in 2001. The shoreland permit is pending. No wetlands are on the property. The cottage
443 is out of the 100 year flood zone. The tax map in the packet gives an idea of the size compared to
444 the surrounding property. The land has been surveyed to identify boundaries. The existing deck is
445 2' wide on one end and 8' wide on the other end. It was constructed this way to comply with the 30
446 foot setback requirement from the lake. The land is rocky and steep. The request is to square off
447 the existing deck to make it more functional and to also add a deck on the side of the building. The
448 deck on the side meets setback requirements and will only need a building permit. The variance
449 request is to square off the existing deck making one end 22.4 feet from the lake and the other end
450 stays the same. The existing building is conforming.

451

452 Mr. LaRochelle asked if anything else was changing where the stairway is or the deck on the side
453 and whether they were expanding the existing or rebuilding the whole deck. Mr. Dooley explained
454 that they were going to replace deck boards and add on to the existing framing to expand the deck.
455 Mr. LaRochelle confirmed that once squared off the deck will be 22.2 feet for the shoreline. Mr.
456 Dooley agreed that is correct.

457

458 Mr. Dooley said that the terrain is very uneven and rocky and hard to traverse. There is no flat area
459 to sit so it is a safety issue as well as a functional issue.

460

461 Mr. Morgan asked if the deck will impair the view of any abutters. Mr. Dooley replied no, he has
462 spoken to the abutters and they are supportive.

463

464 Mr. Monziona questioned how many feet the widest part of the existing deck is into the lake
465 setback. Mr. Varney answered a little over a foot. Mr. Monziona asked once squared off, due to the
466 uneven shoreline, how far will the other side of the deck be into the setback? Mr. Varney answered
467 a little over 7 feet.

468

469 Chair Rich opened public input in favor of application; no one came to the table.

470 Chair Rich opened public input in opposition of application; no one came to the table.

471

472 Chair Rich closed public input and directed the Board to the worksheet.

473

474 For the variance of Article 300 Section 327.A.1:

475

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

477

478 Mr. Monziona stated granting the variance would not be contrary to the public interest. He added
479 this is correcting a safety issue which is in the public interest and the amount of encroachment into
480 the lake setback is minimal. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed. Mr.
481 Morgan agreed. (5-0-0)

482

483 Chair Rich stated the request is in harmony with the spirit of the zoning ordinance and the intent of
484 the Master Plan with the convenience, health, safety and character of the district within which it is
485 proposed. He added this will improve the lot and make it more safe. Mr. Lee agreed. Mr.

486 LaRochelle agreed. Mr. Morgan agreed. Mr. Monzione agreed. (5-0-0)

487

488 Mr. Lee stated that by granting the variance, substantial justice will be done. Mr. LaRochelle
489 agreed. Mr. Morgan agreed. Mr. Monzione agreed. Chair Rich agreed. (5-0-0)

490

491 Mr. LaRochelle stated the values of surrounding properties will not be diminished. He added if
492 anything, this request will make the property more uniform with surrounding properties. Mr.
493 Morgan agreed. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. (5-0-0)

494

495 Mr. Morgan stated that for the purposes of this subparagraph, “unnecessary hardship” means that,
496 owing to special conditions of the property that distinguish it from other properties in the area:

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

499 ii. The proposed use is a reasonable one.

500

501 Mr. Morgan stated that hardship criteria have been met. The rocky shoreline makes it hard to
502 comply with the zoning ordinances, making it a hardship for that property. The proposed use is a
503 reasonable one. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed.
504 (5-0-0)

505

506 **Mr. Monzione MOVED to APPROVE the application for a variance in case Z25-27.**

507 **Seconded by Mr. LaRochelle.**

508 **Chair Rich called for a vote. (5-0-0)**

509 **Mrs. Ditri asked Chair Rich to clarify what the motion was for.**

510 **Chair Rich stated a variance is requested for Article 300 Section 327.A.1 to permit the**
511 **expansion of a deck partially within the 30’ lake setback.**

512

Case #Z25-28 Prospect Mountain Survey, Paul Zuzgo, Agent for Paulette C Alden Brooks 1997 Trust, Paulette C Alden Brooks, Trustee	Map 27 Lot 4 9 Barnes Avenue	Equitable Waiver Variance Residential Commercial Zone (RC) Residential Zone (R)
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513

514 **1. An Equitable Waiver** is requested for Article 300 Section 327.B to permit a new lot with an
515 existing deck in the setbacks.

516 **2. A Variance** is requested for Article 400 Section 443.A.1 to permit a new lot with less than
517 15,000’ minimum required lot area.

518

519 Mr. Paul Zuzgo came to the table to present the case.

520

521 **Mr. Morgan MOVED that application Z25-28 was COMPLETE.**

522 **Seconded by Mr. LaRochelle.**

523 **Chair Rich asked the board for a vote. (5-0-0)**

524

525 Mr. Zuzgo stated both lots have existed for a long time and the houses were built in the 1930-1940

526 timeframe. The equitable waiver is needed because the deck was permitted two years after zoning
527 was enforced and is now within the side setbacks. After the boundary line adjustment, lot 4 will
528 become non-conforming due to not meeting the minimum lot area of 15,000 feet. Between the two
529 lots there was not 30,000 feet in area so he decided to give the larger area to lot 5 as to only need a
530 variance on one lot.

531

532 Mr. Morgan noted that the buildings are in two different zones. Mr. Zuzgo responded that both
533 buildings are in the RC Zone, however part of the deck on lot 4 is in R Zone. When he asked
534 which size to use for these lots he was told to use the 15,000.

535

536 Mr. Zuzgo noted that there are several lots in this zone that are under 10,000 feet. He noted that
537 before the lot line adjustment lot 5 was only 7,000 feet.

538

539 Mr. Monziona clarified that the equitable waiver is due to the existing deck being four feet in the
540 setback, the violation has existed for ten years or more and no enforcement action has been taken
541 including written notice or violation have been commenced. Mr. Zuzgo confirmed that is true and
542 clarified that there is no lake on this lot.

543

544 Mr. Morgan asked how much less than the 15,000 feet the lot will be? Mr. Zuzgo answered 13,076
545 feet. He added that the lot meets the State's lot loading criteria.

546

547 Chair Rich asked how many lots in this zone are under the 15,000 feet requirement. Mr. Zuzgo
548 answered he could think of six or seven.

549

550 Chair Rich opened public input in favor of application; no one came to the table.

551 Chair Rich opened public input in opposition of application; no one came to the table.

552

553 Chair Rich closed public input and directed the Board to the worksheet.

554

555 For the Equitable Waiver requested for Article 300 Section 327.A:

556

557 *The Board must find that all the following conditions are met in order to grant the Equitable*
558 *Waiver:*

559

560 Mr. Morgan stated the criteria on the equitable waiver dimensional requirements that are applicable
561 is Section B of that application and that is in lieu of findings required by the Board in the first two
562 paragraphs, which we did not find, the owner may demonstrate to the satisfaction of the Board that
563 the violation has existed for ten years or more, and that no enforcement action, including written
564 notice of violation, has been commenced against the violation during that time by the municipality
565 or any person directly affected. In this case, we have a deck which has existed slightly into the
566 setback for a number of years and no action has been taken. He stated that Section B is applicable.
567 Mr. Monziona agreed and added that the applicant clarified it has been that way for more than ten
568 years and built shortly after zoning took affect. Chair Rich Agreed. Mr. Lee agreed. Mr.
569 LaRochelle agreed. (5-0-0)

570

Mr. Morgan MOVED to APPROVE the application for an equitable waiver from Article 300 Section 327.A in case Z25-28.

Seconded by Mr. Monzione.

Chair Rich called for a vote. (5-0-0)

For the variance of Article 400 Section 443.A.1 to permit a new lot with less than 15,000' minimum required lot area:

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

Mr. Monzione stated granting the variance would not be contrary to the public interest. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed. Mr. Morgan agreed. (5-0-0)

Chair Rich stated the request is in harmony with the spirit of the zoning ordinance and the intent of the Master Plan with the convenience, health, safety and character of the district within which it is proposed. He added this is exactly what our Master Plan and zoning ordinances are designed to give accommodation to our constituencies in this manner. Mr. Lee agreed. Mr. LaRochelle agreed. Mr. Morgan agreed and added this will conform with other lots in the district. Mr. Monzione agreed based on the information of the other lots and the size of this lot when finalized is pretty close to the zoning requirement. (5-0-0)

Mr. Lee stated that by granting the variance, substantial justice will be done. Mr. LaRochelle agreed. Mr. Morgan agreed and added the benefit to the applicant far outweighs any detriment to the people of Alton. Mr. Monzione agreed. Chair Rich agreed. (5-0-0)

Mr. LaRochelle stated the values of surrounding properties will not be diminished and added nothing is changing. Mr. Morgan agreed. Mr. Monzione agreed adding there was no evidence from anybody that shows otherwise. Chair Rich agreed. Mr. Lee agreed. (5-0-0)

Mr. Morgan 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. Morgan stated that hardship criteria have been met. He added the existing lots are quite small and the change will make them closer to conformity as well as the proposed use is not changing therefore is reasonable. Mr. Monzione agreed. Chair Rich agreed. Mr. Lee agreed. Mr. LaRochelle agreed. (5-0-0)

Mr. Morgan MOVED to APPROVE the application for a variance from Article 400 Section 443.A.1 in case Z25-28.

Seconded by Mr. Monzione.

Chair Rich called for a vote. (5-0-0)

OTHER BUSINESS

616 **1. Previous Business:**

617 **2. New Business:**

- 618 a. ZBA to consider rehearing request from Attorney Robert Miller of Sheehan Phinney
619 for Case Z25-18, Administrative Appeal for Richard Casale, Trustee of the Richard
620 Casale Family 2005 Irrevocable Trust, – Map 16, Lots 18 & 20, Cherry Valley Road.

621 Mr. Monziona recused himself and moved to the audience.

622
623 Mr. Morgan does not think anything new has been brought forward, they are arguing the same
624 information that has already been reviewed, does not agree that we erred in our judgment,
625 therefore does not believe a rehearing should be granted.

626
627 Mr. LaRochelle agreed since nothing new has been added and they are rehashing the same topics.

628
629 Mr. Lee agreed noting that they appealed the Planning Board decision, the Zoning Board heard the
630 appeal and upheld the decision and doesn't see any necessary action for a rehearing since all
631 parties did their due diligence.

632
633 Chair Rich concurs with the rest of the Board that the rehearing request should be denied based on
634 the fact there is no new evidence and as noted in our first decision we feel the Planning Board
635 made the correct decision based on the information provided to us.

636
637 Mr. LaRochelle added that the Zoning Board made the correct decision to uphold the Planning
638 Board decision.

639
640 **Mr. Morgan MOVED to DENY the request for a rehearing in case Z25-18.**

641 **Seconded by Mr. LaRochelle.**

642 **Chair Rich called for a vote. (4-0-0)**

643
644 Mr. Monziona returned to the table.

- 645
646 b. ZBA to consider a rehearing request from Attorney Shawn Dunphy of Cronin,
647 Bisson & Zalinsky for Case Z25-15R for Walter & Janice Borowski, Trustees of the
648 Walter P. Borowski Living Trust.

649
650 Mr. Morgan stated that at the end of this presentation last time the tenor of the discussion
651 degenerated into antagonistic back and forth and when that happens boards and applicants don't
652 reach the best possible decision. He believes there is some merit in the request for a rehearing.
653 Also, in reading the record the applicant is saying they presented a hydrologist report, and what
654 they presented is a report that outlines an analysis of the water coming out of the well. The Board
655 has been asking for a hydrologist report and he is wondering if we are all using the same word and
656 asking for different things. He believes the Board is asking for a permeability study which shows
657 whether or not the aquifer will allow the percolation of the septic system without detriment to the
658 aquifer. If there is a misunderstanding in the terminology a rehearing would be appropriate to iron
659 out the issue.

661 Mr. Monziona believes there were key facts missing in the application in order to determine the
662 key points. When too many assumptions are having to be made the Board is not comfortable
663 granting a variance. The other issue is that they do not need a special exception because it is a
664 single house, which was not highlighted at the previous hearing. He feels a rehearing would be
665 useful.

666

667 Mr. Lee remembers the case and the hydrologist was the key point and they were looking for a
668 guarantee that if they did a hydrologist report they wanted a guarantee that everything else would
669 be approved, which became very contentious. Also, he believes there are two specific properties,
670 one is almost completely built already and done without permits. Based on that information, he
671 does not feel a rehearing is necessary.

672

673 Mr. LaRochelle feels that the Board requested the hydrology test and the applicant decided to
674 waive that and move to a decision. He feels that the previous decision should stand and the
675 rehearing request be denied.

676

677 Chair Rich stated he was not in attendance at the hearing, he can only read the record which was
678 contentious. Since he wasn't present he does not feel comfortable making a decision. He would
679 like to continue this until the other present member is here to vote.

680

681 **Mr. Morgan MOVED to CONTINUE the decision on the request for a rehearing in**
682 **case Z25-15R until the next scheduled meeting.**

683 **Seconded by Mr. Monziona.**

684 **Chair Rich called for a vote. (5-0-0)**

685

686 c. Letter from ZO for Map 26 Lot 4 in regards to requirement for completion of
687 conditions of approval.

688

689 Mrs. Ditri wanted to share with the Board the requirements for completion of conditions of
690 approval have not been met. She sent a certified letter a month ago and still has not heard back.
691 She will continue with the enforcement process.

692

693 **3. Approval of Minutes: ZBA meeting minutes of June 5, 2025**

694

695 Mr. Morgan noted some changes:

696 - Page 6 of 19 line 220 should say they are also left with an existing deck in the setback

697 - Page 9 of 19 line 376 should say they run the risk of not receiving an approval

698 - Page 18 of 19 line 735 ends with 1-3-0

699 On Line 730 Mr. LaRochelle said it is not in harmony and every one after said it was in
700 harmony. How do we properly score the vote, should it say 3-1-0?

701 Mr. Monziona questioned if it goes off the first person voted.

702

703 Mr. Monziona noted a change:

704 - Page 6 of 19 line 227 states Mr. Monziona guided Mr. Zuzgo to reapply for all variances.

705 He questioned the use and appearance of the word guided since he didn't like the way it

sounds as if he is leading an applicant. He would prefer suggested be used instead.

Mr. Morgan MOVED to ACCEPT the minutes of the meeting on June 5, 2025.

Seconded by Mr. LaRochelle.

Chair Rich called for a vote. (5-0-0)

4. Correspondence:

Mrs. Ditri noted there is no correspondence to report.

ADJOURNMENT

Frank Rich, Chair

Mr. Monzione MOVED to adjourn the meeting.

Seconded by Mr. Morgan.

Chair Rich asked the board for a vote. (5-0-0)

The meeting was adjourned at 7:57 PM.

Respectfully Submitted,

Carol Long, Recording Secretary