

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
APPROVED 10-01-09
Special Public Hearing
July 23, 2009**

I. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Paul Monzione, Chair.

II. INTRODUCTION OF BOARD MEMBERS

Paul Monzione, Chair, introduced the following:

Randy Sanborn, Planning Secretary for the Planning Department
Sharon Penney, Town Planner
Timothy Kinnon, Member
Stephen Hurst, Vice-Chair
Timothy Morgan, Member
Paul Monzione, Chairman
Patricia Fuller, Selectman's Rep. Not present

III. APPOINTMENT OF ALTERNATES

None was required; Board is sitting with four full time members.

IV. INTRODUCTION OF THE AGENDA

Before introducing the agenda, Chairman Monzione read a brief statement of the appeal process.

The purpose of this hearing is to allow anyone concerned with an Appeal to the 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 gage 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 has been or will be met.

T. Morgan made a motion to approve the agenda as submitted; motion was seconded by S. Hurst and passed by unanimous vote.

P. Monziona noted for the record that, by agreement of all members, this case is being heard as a special meeting. This is not a regular meeting, and there is only one case on the agenda. Case # Z09-13, was read by S. Penney.

V. NEW APPLICATION

This is a case for an area variance regarding setback brought by Stephen and Mary Lee Spicer, owners of Lot 7 on Tax Map 48. They are requesting an Area Variance from Article 300 Section 327 to replace a pre-existing grandfathered deck, which was removed due to structural issues, and replace that with a 12 X 20 foot new deck, which will also include a new 3-season room on the deck. This parcel is located in the Lakeshore Residential zone.

P. Monziona invited the applicant to come forward and identify himself for the record. Mr. Stephen Spicer introduced himself and stated that he owns the property with his wife, Mary Lee, who could not attend.

Mr. Spicer stated that they are doing renovations inside and out. They have extended the living area to include the front porch. There was a deck that had to be removed due to rot up against the building; that deck was very close to the setback. The lot that the deck faces is a substandard lot that can never be developed. They were told at the time the deck was removed that even if they replaced it with the same size they would still have to apply for a variance; they decided if they have to go through the process, to make the deck a little bigger. The permit they pulled originally had been to put the sunroom on the front; they have decided now that they would rather have it on the side, where the deck is. He has talked to the Roberts family; they don't have a problem with it.

M. Spicer thanked the Board for coming in for a special meeting; P. Monziona stated that the Board is happy to help when they can.

T. Morgan asked Mr. Spicer where the 3-season room would be located on the deck, and what portion of the deck would it cover. Mr. Spicer indicated a door on the drawings and said that the 3-season room would be there and would take up about 2/3 of the space. They have also decided to move the steps to the opposite side from what is shown in the drawings.

The location and size of the sunroom was further clarified using the drawings and photos brought in by the applicant. The sunroom would be about 12 X 16.

T. Morgan asked S. Penney if the combination of Lots 5 and 6 could create a conforming lot. After discussion the answer was no because they would not meet the area or frontage requirements.

S. Hurst asked why they chose to move the proposed sunroom from the front to the side of the house, as it looks like it would be conforming on the front. Mr. Spicer answered

that the lake is out that way, and they would rather have it face that way. He also indicated that the location of an existing door would be the access to the sunroom.

T. Kinnon said that the application called for a deck, but in reality, it is a sunroom. Mr. Spicer stated that when they first started, it was going to be a deck, but they changed their minds in the process and decided they wanted a 3-season room on it.

P. Monziona stated that whenever they are being asked, particularly in a Lakeshore Residential area, to grant a variance, that makes a non-conforming structure even more non-conforming, there are issues there. Also, if the application were to be voted in favor, it would have to be conditional on getting specific dimensions for the 3-season room. Specific plans with specific dimensions would show the Board exactly what they are actually granting the variance for.

P. Monziona asked for clarification on the dimensions. S. Penney answered that the original deck was 10 X 16; the proposed replacement would be 12 X 20, which would increase the width by 2 feet or about 20%, and the length increases by 4 feet, or about 25%, for an overall 8 square foot gain.

P. Monziona reiterated that if a variance was granted, he would feel more comfortable knowing what the variance was for. If they are granting a variance for the room, that is extending the main structure into the setback and becoming even more non-conforming, and that the room is going to be the entire 12 X 20. He would be more comfortable with this if they were more certain of the details.

Mr. Spicer, used photos to show where the room would begin and end.

P. Monziona clarified that the portion of the deck that would be the room would be 16 X 12. Mr. Spicer agreed. P. Monziona asked for clarification of how many feet this would be into the setback. Mr. Spicer used photos to clarify. S. Penney stated that about 1/3 of the existing deck was in the setback. The setback is not parallel to the deck, so at the most non-conforming point, it is about 5 feet into the setback.

T. Kinnon asked if moving the steps to the other side, as previously mentioned, would also cause the deck to be moved. Mr. Spicer said it would not. T. Kinnon also mentioned that in the pictures it looks like there is a new ledger board that goes all the way to the corner of the house. Mr. Spicer said they had continued that all the way out because there was rot there.

P. Monziona used diagram #2 to clarify where the deck will be when it is finished. Northwest corner is the furthest into the setback with the southeast corner being the furthest from the setback. He asked how far into the setback that northwest corner extended. Mr. Spicer answered that he thought it was about 4 or 5 feet. S. Penney said she had calculated that the most flagrant corner would be about 7 feet into the setback, which only leaves about 3 feet of setback. P. Monziona added that the room structure is going into the northwest corner of the deck, where it is most into the setback.

S. Penney said that the width of the deck, not the length, is what is causing the issue. She also pointed out that Mr. Spicer has a letter from his neighbors saying that they don't have a problem with it.

T. Kinnon pointed out that one of the original intents of the ordinance was to allow access to emergency personnel. A deck would be one thing, but a room would be a different animal. He asked how the notice was in the paper; it was the same as the agenda. Mr. Spicer spoke about the road, and how narrow it is.

S. Penney suggested that they could keep the width the same (at 10') and going longer. P. Monziona restated and clarified this. The violation diminishes as the deck goes back.

T. Kinnon spoke about the additional issues of the room being a safety issue, pointing out that the abutter could build a fence at his line, making it very difficult to get through for emergency purposes.

P. Monziona pointed out that a room has a completely different set of uses; people could sleep out there. Extending a deck would still leave the narrowed space, but if it is going to be a room, it presents a different structure. Also, the portion of the deck where the room would be located is already the most non-conforming corner. He also spoke about the fact that the application does not give the dimensions, though that has been addressed during the meeting.

S. Penney asked about the roof line. Mr. Spicer said it would tie into the existing roof. She also asked about the distance from the outside boundary of the property to the lake; it is more than 250', so the Shoreline Protection Act would not be in force.

P. Monziona asked if Mr. Spicer had anything to add at this point. Mr. Spicer asked about putting a foundation under the 3-season room. P. Monziona explained that more detail as to size, shape, rendering, etc. that they have on an application helps them to make a decision. An alteration to the application makes it a different application and the public would have a right to be notified. Extending the living area of your house by adding on a room with a foundation might be seen differently than extending a deck. Clarity has been added to the existing application by giving dimensions; P. Monziona would not be comfortable with including that on this application.

P. Monziona opened to the public to speak for or against the application. Hearing none, public input was closed. P. Monziona then asked for deliberation.

S. Hurst felt that other options should be explored by the applicant.

T. Morgan feels it is difficult to come to a conclusion because he is not comfortable that they have tied down to details of the 3-season room; he is also concerned that the application does not seem very concrete.

T. Kinnon restated his concerns about the 3-season structure that far into the setback; this is drastically against the spirit of the setback ordinance, the main purpose of which was for protection via emergency response. The owners of those two lots could merge with a third lot, which would make it buildable.

P. Monziona shares T. Morgan's concern with the lack of detail; also suggested a more detailed drawing, as a variance is going to be required now that the original non-conforming structure has already been removed. More detailed information about the proposed room, possibly taking into consideration a location that would not be non-conforming. He offered Mr. Spicer an opportunity to reconfigure rather than reapply. S. Penney suggested something more 3-dimensional.

P. Monziona reopened public input to address Mr. Spicer with the option of a continuance so he can solidify the application details and explore the possibility of relocating the structure. S. Penney stated that the next meeting would be August 6th. P. Monziona asked Mr. Spicer if that would be acceptable; Mr. Spicer indicated that it would.

T. Kinnon made a motion that they continue Case Z09-13 to the next regularly scheduled meeting, which is August 6, 2009, and to allow the applicant to supplement the application. Motion was seconded by T. Morgan, and passed by unanimous vote.

Mr. Spicer spoke to S. Penney briefly concerning some of the details. Mr. Spicer was given a copy of the worksheet used during deliberation.

VI. APPROVAL OF MINUTES

Minutes of March 5, 2009

Byrne Area Variance – no motion made. Reconvened for a special meeting on March 11, 2009 to put that motion in place.

Opinion put forth by Marcy Perry was incorrect; she did not agree on some of this. There were 4 in agreement, and she voted against going with this.

The vote on the motion (which was not actually made but corrected the next time around) was not unanimous – it was 4 to 1, so it still passed.

By the March 11 meeting, Marcy had retired.

On the March 5th minutes, on page 4, numeral 3, last sentence should read T. Kinnon and T. Morgan agreed; M. Perry disagreed. At numeral 5, "terrain" is misspelled. Last sentence should read 4 members agreed; M. Perry disagreed.

On Page 5, the word “unanimous” is misspelled. “Surface” is misspelled. Where “T. Kinnon/S. Hurse – UNAMIOUS” shows, there was no motion there.

Any instance of “T.” Monziona should be corrected to “P.” Monziona.

T. Kinnon made a motion to accept the minutes of March 5, 2009, as corrected. T. Morgan seconded the motion, which passed by unanimous vote.

March 11, 2009

P. Monziona had recused himself from this meeting. M. Perry had retired prior to this meeting.

Next to last paragraph on the first page should read: “...each of the criteria were properly met by the applicants request and that four members of the Board voted on each of the criteria in favor of the applicant; one (M. Perry) voted not in favor.

There was discussion concerning the fact that there were only three members voting, but because they were the only members voting, the words “passed by unanimous vote” are correct.

T. Morgan made a motion to accept the March 11, 2009, minutes of the special meeting as corrected. Motion was seconded by T. Kinnon, and passed in favor with one member abstaining (P. Monziona.)

April 2, 2009

Citing the length and detail of these minutes, T. Morgan made a motion to continue approval of the April 2, 2009 meeting minutes until the next regularly scheduled meeting. T. Kinnon seconded the motion. Motion was clarified to include only the minutes of the April 2, 2009 meeting. Second was reaffirmed, and the vote to continue the approval of the April 2, 2009 meeting minutes to the next regularly scheduled meeting was unanimous.

S. Penney asked if all members had the verbatim minutes of the April 2, 2009 meeting. Any who don’t can request them through her office.

P. Monziona asked if there were minutes of the election; they are in the April 2, 2009 minutes.

May 7, 2009

T. Kinnon noted that on page 2, last paragraph, the conversation referenced was with Thomas Hoopes, not the town attorney.

Counsel, as referring to legal counsel, is misspelled throughout.

The template is incorrect throughout, as it reflects a March date in the footer.

On page 1, second paragraph from the bottom, should read "...on behalf of applicants..."

On page 3, the blank in the last statement above "IX. NEW BUSINESS" should be filled with the word "application."

T. Kinnon made a motion, seconded by S. Hurst, to approve the minutes of May 7, 2009, as amended. Vote passed unanimously.

June 4, 2009

On page 1, III., The statement of the appeal process was read by P. Monziona, not by T. Morgan.

On Page 5, T. Monziona should be P. Monziona.

On Page 5, Case #Z09-11, "Seaman-Dillard Architects" should be "S'amyn-D'Elia Architects."

On Page 4, last paragraph, "Monziona" is misspelled.

On Page 6, in the application description for Case Z09-12, "Stephen And Raquel Roges" should be "Stephen and Raquel Rogers".

T. Morgan made a motion to approve the minutes of June 4, 2009, as corrected. Motion was seconded by S. Hurst, and passed in favor with one member abstaining (T. Kinnon).

VII. OLD BUSINESS

S. Penney completed the corrections to the ZBA application; she passed them to members for their input at the next meeting.

Fees have gone up for mailing fees which have gone up to \$8 and the abutter fee has gone up to \$6.

S. Penney handed out references for RSA's.

VIII. NEW BUSINESS

Materials handed out from Stacey Ames.

IX. CORRESPONDENCE

Promotional materials and conference invitations.

X. ADJOURNMENT

Motion to adjourn made by T. Morgan, seconded by S. Hurst. Vote to approve was unanimous. Meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Mary L. Tetreau
Acting Recorder, Public Meeting