

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
August 2, 2012
Approved September 6, 2012**

I. CALL TO ORDER

Tim Morgan, Vice-Chair, called the meeting to order at 7:00 p.m. Tim Kinnon, Chair, was not in attendance at this meeting.

II. INTRODUCTION OF PLANNING DEPARTMENT AND ZONING BOARD MEMBERS

Tim Morgan, Acting Chair, introduced himself, the Planning Department Representative, and the members of the Zoning Board of Adjustment:

John Dever, Building Inspector and Code Enforcement Officer
Paul Monzione, Member
Lou LaCourse, Member
Steve Miller, Member
Loring Carr, Selectmen's Representative
Paul Larochele, Alternate

III. APPOINTMENT OF ALTERNATES

P. Monzione made a motion to appoint Paul Larochele as an acting member for this meeting. Lou LaCourse seconded the motion which passed with four votes in favor, none opposed, and no abstentions.

IV. 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 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 has been or will be met.

T. Kinnon informed all present that this Board desires to hear all cases, but that it is the practice of the Board to stop hearing cases at 10:00 p.m. None of the five cases on the agenda this evening requested a continuance.

V. APPROVAL OF THE AGENDA

There were no changes to the posted agenda.

S. Miller made a motion to approve the agenda as presented. P. Monzione seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

VI. NEW APPLICATIONS

Case #Z12-10 34 Roger Street	Special Exception Map 54 Lot 13	Brian Connelly Recreational Service District
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Brian Connelly is requesting a Special Exception to replace an existing house that is of non-conforming use and setbacks. He will be rotating the placement ninety degrees to get out of the setback but the use will remain non-conforming.

J. Dever read the case into the record.

Mr. Connelly came forward to present this case.

P. Monziona questioned whether one of the documents in the application was a septic design; Mr. Connelly explained that it is not a septic plan – it is a survey of the property at the time he purchased it.

P. Monziona made a motion to accept the application as complete; L. LaCourse seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

Mr. Connelly briefly explained the application. There is an existing two bedroom cottage that he will demolish and rebuild; it will be turned 90 degrees in the process. The cottage is presently approximately 8.5 feet from the side lines; the new cottage will be 10 feet from the side lines. The new cottage will be one bedroom. The footprint will be exactly the same. L. LaCourse questioned the use of the existing porch; the existing three season porch will be used partially as living space and there will be a five foot porch on the front of the new cottage. P. Monziona clarified the use of the porch through questioning.

P. Monziona asked about the frost wall; there will be a four foot frost wall and no additional living space beneath the cottage.

T. Morgan opened public input; there was no public input either for or against this application. Public input was closed.

L. LaCourse asked if the cottage would go from seasonal to year round use. The applicant explained that he is going to build the cottage with insulation, heating and cooling, etc., and asked if it would be a problem to convert to year-round use. L. LaCourse responded that there is a section of the regulation under which the applicant is applying that prohibits converting from seasonal to year-round use under this particular Zoning Regulation. There was some discussion concerning this regulation, as this is the first case to come before the ZBA since this revised regulation went into effect. The purpose of the revised regulation was to allow owners to demolish an existing structure and rebuild it as long as it was in the exact footprint and as long as there was no expansion of the use. The revised regulation points directly to the issue of availability of water which most of the seasonal cottages in the area have only during the spring, summer, and fall.

WORKSHEET

All members agreed that a plat has been accepted in accordance with Town of Alton Ordinance 520-B.

All members agreed that the specific site is appropriate for the use; it is already being used in that fashion.

All members agreed that there is no factual evidence that property values in the district will be reduced due to incompatible uses; property values will either remain the same or increase.

All members agreed that there were no objections from abutters based on demonstrable fact; there were no objections voiced at all.

All members agreed that there would be no nuisance to pedestrian or vehicle traffic including the location and design of access ways and off street parking; there are no changes that will affect pedestrian or vehicular traffic.

P. Monziona verified through questioning the applicant that there is an adequate septic system in place; the applicant explained that there is actually a four bedroom septic shared between the main house, which has three bedrooms, and the cottage, which will have one bedroom.

Conditioned on the fact that the septic system will qualify for approval by the proper authorities, all members agreed that appropriate and adequate facilities and utilities would be provided to insure proper operation of the structure.

L. LaCourse asked if the water supply is year-round; the applicant answered that it is.

All members agreed that there is adequate area for safe and sanitary sewage disposal and water supply. P. Monziona again agreed on the condition that the septic system is approved for the structure.

S. Miller asked the applicant if it is his intention to rent the cottage on a seasonal basis; the applicant answered that he could possibly rent it to family or to others to help pay the taxes. S. Miller asked if he would rent it during the winter; the applicant explained that he did not want to discount that possibility. He has no plans at the moment but does not know what may be done in the future.

All members agreed that the proposed use of the structure is consistent with the spirit of the ordinance and the intent of the Master Plan, particularly as the rebuilding of the structure will cause it to be less non-conforming.

S. Miller made a motion to approve the Special Exception for Case #Z12-10 on the condition that the structure can only be rented out or used on a 9 month basis.

The applicant questioned the regulation which states that a seasonal cottage can not be turned into a year round home. He asked what happens to all these little structures if someone buys them and wants to replace them.

P. Monziona explained that this only applies to structures that are non-conforming; a structure with plenty of land and within the setbacks would not have to apply under this ordinance. The issue really is the fact that this building is being demolished and replaced in kind; there would be opportunity at another time to do an expansion of a non-conforming use. After discussion, the applicant was informed that he had two options – he could stop the process right now and reapply under a different zoning regulation, or he could proceed with this approval and apply later for a Special Exception to expand the use. The applicant thought he would proceed now and come back later if he decides to expand the use.

P. Monziona voiced concern over the motion above; nine months would be hard to define. He would suggest making the condition match what is written in the regulation as well as adding a condition concerning approval of the septic system.

S. Miller withdrew his motion.

P. Monziona made a motion to approve the Special Exception for Case #Z12-10 on the condition that the structure is not converted to year-round use as indicated in the regulation, and that the septic system required for the structure has approval from the proper governmental entities. L. LaCourse seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

Case #Z12-11 20 Hurd Hill Road	Special Exception Map 15 Lot 59B	Richard Lundy
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On behalf of Richard Lundy, Paul F. Zuzgo, LLS is requesting a Special Exception to build a 40' X 80' building. There will be a garage under with access on the back of the building. There will be offices on the top floor with access out the front to the parking area.

Mr. Lundy and Mr. Zuzgo came forward to present this application.

P. Monziona pointed out that he has a professional relationship with Mr. Zuzgo and he knows Mr. Lundy both personally and professionally. He did not feel that either relationship would render him unable to be objective but did offer to recuse if the applicant or the Board felt that it was necessary; neither Mr. Lundy nor Mr. Zuzgo, or any members of the Board felt that it would be necessary for P. Monziona to recuse.

L. LaCourse made a motion to accept the application for Case #Z12-11 as complete; S. Miller seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

Mr. Lundy would like to put a 40' X 80' building next to the one that is already on the property. He will do a revised site plan; the original site plan was done back in the 80's when he put the original building in.

S. Miller asked if this property is in the process of being sold; the applicant answered that it is and should be finalized by the end of September.

L. LaCourse asked if the addition of this building increases the non-conformance of this lot due to excess coverage. J. Dever answered that it does not. As a commercial site this lot is allowed to have two buildings; if it were residential there could only be one residence. There is no specific coverage requirement on commercial property. L. LaCourse asked what makes the lot non-conforming now; J. Dever answered that the lot is not non-conforming. The Special Exception is to allow the use, which is a building trades and repair shop.

P. Monziona explained that this application is to permit a use in this zone that is not currently listed in the Table of Uses. He questioned the applicant about the reason for bringing the Special Exception under Article 400, Section 401; the applicant explained that Ken (McWilliams) had told them the Special Exception would be needed. J. Dever pointed to the regulation which says that the reason for the Special Exception is because the use as a building trades and repair shop is listed in the Table of Uses for this zone, but only by Special Exception. The Special Exception is needed because even though the property has been in use for the purpose of building trades and repair since the 1980's, the use is expanding, even though it is not changing. The repair shop will be used for repair of the owners' trucks.

There was no public input either in favor of or against granting of this application. Public Input was closed.

WORKSHEET

All members agreed that a plat has been accepted in accordance with Town of Alton Ordinance 520-B.

All members agreed that the specific site is appropriate for the use; the use is not changing and it is allowed by Special Exception.

All members agreed that there is no factual evidence that property values in the district will be reduced due to incompatible uses; the use is not incompatible.

All members agreed that there were no objections from abutters based on demonstrable fact; there was no input from abutters at all.

All members agreed that there would be no nuisance to pedestrian or vehicle traffic including the location and design of access ways and off street parking; nothing being done here is going to affect traffic or parking in any way.

L. LaCourse asked if there is a septic system; the applicant explained that there is an adequate septic system on site, and there is a shared well with easements on the adjacent lot.

All members agreed that appropriate and adequate facilities and utilities would be provided to insure proper operation of the structure. Connection of the septic system would be a condition of the approval.

All members agreed that there is adequate area for safe and sanitary sewage disposal and water supply, again conditioned on the septic system being connected to the structure.

All members agreed that the proposed use of the structure is consistent with the spirit of the ordinance and the intent of the Master Plan; this use is permitted by the Table of Uses with a Special Exception.

P. Monziona made a motion to approve and grant the application for Case #Z12-11 on the condition that the appropriate septic system is in fact connected to the proposed building. L. LaCourse seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

VII. OTHER BUSINESS

A. Previous Business: ZBA Fees were voted on and increased by the Board of Selectmen.

B. New Business – next month there will be two cases that are Appeals to Administrative Decisions. Attorney Sessler would like to meet with the Board prior to the next ZBA meeting on September 6, 2012 to discuss these appeals. After discussion, members agreed that an hour before the September 6, 2012 meeting would be the best time to get everyone together. J. Dever will finalize the arrangements and confirm with the Board members.

C. Minutes: May 3, 2012 – on page 3, second paragraph, 6th line, where the minutes read “negative effect surround other campgrounds...” should read “negative effect surrounding other campgrounds...” P. Monziona questioned Condition #12 for Case Z12-07; he did not recall a specific decibel level as part of the motion. After short discussion, he decided to leave it as is.

S. Miller made a motion to approve the minutes as amended. P. Monziona seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

D. Correspondence: There was none

VIII. ADJOURNMENT

P. Monziona made a motion to adjourn. L. LaCourse seconded the motion which passed with five votes in favor, none opposed, and no abstentions.

The meeting adjourned at 7:55 p.m.

The next regular ZBA meeting will be held on September 6, 2012, at 7:00 p.m.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session