

**TOWN OF ALTON  
ZONING BOARD OF ADJUSTMENT  
APPROVED MINUTES  
Public Hearing  
August 4, 2016**

**I. CALL TO ORDER**

Chairman Paul Monzione called the meeting to order at 6:03 p.m.

The following members were present: Paul Monzione, Chair; Tim Morgan, Vice Chair Paul LaRochelle, Member; Lou LaCourse, Member, Steve Miller, Member

Others Present: John Dever, III, Code Enforcement and Traci Cameron, Recorder

**II. APPOINTMENT OF ALTERNATES**

There were no alternates needed.

**III. STATEMENT OF THE APPEAL PROCESS**

**P. Monzione** read into the minutes the statement of the Appeals 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.

**IV. APPROVAL OF THE AGENDA**

**J. Dever, III**, stated there was one change to the agenda, June's Draft Minutes needed to be added to Minutes, Under Other Business.

**S. Miller** moved to accept the agenda as amended. **P. LaRochelle** seconded the motion, with all in favor.

**V. CONTINUED APPLICATION**

<b>Z16-18 Brian Fortier</b>	<b>Map 61 Lot 1</b>	<b>Variance Mount Major Highway</b>
---------------------------------	---------------------	---

P. Monziona called Case Z16-18 and read into record the following: Brian Fortier, Co-Owner of the property and agent for West Alton Marina, is requesting a Variance to Article 400, Section 401, Table of Uses, Retail Business and Services #'s 13 "Building Trade or Repair Shop" & 15 "Contractor Equipment Storage" in the Lakeshore Residential Zone. The purpose of the request is to construct facilities to accommodate the relocation of an existing grandfathered marine construction business from its present location in the Marina to a portion of Map 61 Lot 1.

The Marina is located on Map 17 Lot 29, which is wholly within the Recreational Service Zone.

Map 61 Lot 1 abuts the Marina, but straddles the Zoning Boundary between the Recreational Service Zone, and the Lakeshore Residential Zone which encompasses the majority of the lot.

P. Monziona asked for clarification on the application prior to accepting the Application as complete. P. Monziona asked if documents and maps from Case Z16-17 were to be considered part of this application as well. Robert Dietel, Attorney for West Alton Marina, stated that yes some items from Case Z16-17 were to be included in this application.

**T. Morgan moved to accept Case Z16-18 as complete. L. LaCourse seconded the motion, with all in favor.**

Brian Fortier, Co-Owner, West Alton Marina, introduced himself and Robert Dietel, Attorney for West Alton Marina, Patsy Scribner, Owner, Winnepesaukee Marine Construction and Jack Szemplinski, LLS, Benchmark Engineering, Inc., Engineer for the project.

B. Fortier stated that he and his two sisters, owned the property and were requesting a variance for the purpose of relocating of an existing grandfathered marine construction business, Winnepesaukee Marine Construction, from its present location in the Marina to a portion of Map 61, Lot 1. B. Fortier gave a brief history of the Marina, stating his grandfather had started the business in the early 1950's and Winnepesaukee Marine Construction had been leasing space at the Marina for many years. Patsy Scribner, owner, stated they had been leasing the space since 1969.

B. Fortier stated that he has had meetings with NH DES and they have come out to the site to give their recommendations. He stated that NH DES would like to see all future construction activities, such as welding and cutting, done further away from the shoreline and ideally contained in a building. He stated none of the construction activities are illegal but when they are cutting and welding there are metal filings left on the ground and when it rains whatever is on the ground leaches into the water.

R. Dietel, Attorney, provided the Board with an aerial Google image of the site taken in 2011, which showed the Board a better idea of where storage was taking place on the property, where the barges load and unload and how the overall area is being used by Winnepesaukee Marine Construction.

R. Dietel, Attorney, stated the Board should grant the variance request to the applicant for the following reasons:

Public Interest: The variance will not be contrary to the public interest because it serves the public interest in a number of ways, it pulls activities away from the lake, supports a long standing business, and is shielded by neighbors.

Spirit of the Ordinance: The request is in harmony with the spirit of the ordinance because similarly is in harmony, has a forested buffer, by pulling back and covering the activities that currently exist on the property it is reducing erosion, as well as removing it from the sight of abutters, it ensures public access to marine construction services for those that live on the shoreline and the islands, preserves an existing business that has been in operation on the site since 1969, serves the master plan objectives in numerous ways including small scale commercial activity, provides support services to tourists and recreational business, and locates the use in interior areas.

Substantial Justice will be done because, on the one hand, there is no benefit to the public by strict adherence-the use already exists and will likely continue without the variance- but the harm is significant in that it impairs the redevelopment plans as a whole. Absent the variance the applicant may need to look at split uses and mixed residential commercial development which would have a far greater impact.

Property Values: The request will not diminish property values because the use is already existing, but will improve use by bringing the construction activities inside and pulling back the already existing activities from the waterfront. So if anything, instead of diminishing property values the proposed project would more likely improve property values and lastly, it is a low intensity seasonal use.

Hardship: Enforcement would result in unnecessary hardship because due to special conditions of the property that distinguish it from other properties, there is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property and the proposed use is a reasonable one.

Attorney Dietel concluded his presentation by stating the location is driven by the physical features of the property and the economic realities of redevelopment. The proposed redevelopment is necessary to ensure the long-term health of the marina business and the redevelopment plans. The purpose of residential development is to have a low intensity use and this is lower intensity than what is existing and what would be required with residential development. There is no fair or substantial relationship between the purpose of the use restriction and the application to this property. Further the use is reasonable, it is grandfathered on the adjacent lot and this brings what already exists into better facilities and location.

P. Monziona opened for public comment for anyone who wished to speak in opposition of the variance being granted. No public input. Closed public input for those opposed.

P. Monziona opened for public comment for anyone who wished to speak in support to the variance being granted. Earl Bagley member of the Town's Conservation Commission spoke in support of the variance being granted in this case. E. Bagley stated that he along with John Dever, III, Code Enforcement Officer, Nic Strong, Town Planner and another member of the Conservation Commission went on a site walk to West Alton Marina and were able to see firsthand the proposed changes and that B. Fortier had presented the proposal to the Conservation Commission at their last meeting. E. Bagley stated both he and other members of the Conservation Commission felt that by granting this variance to the applicant it would improve the current situation and would be much better for the environment in terms of reduction of runoff. Closed public input for those in support.

P. Monziona moved the Board on to the worksheet.

P. LaRochelle state that the variance **will not** be contrary to the public interest. T. Morgan, P. Monziona, L. LaCourse, and S. Miller all agreed that the variance would not be contrary to the public interest.

T. Morgan stated the request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety and character of the district within which it is proposed. P. LaRochelle, P. Monziona, L. LaCourse, and S. Miller all agreed that the request is in harmony with the spirit of the Zoning Ordinance.

P. Monziona stated by granting the variance, substantial justice **will** be done. P. LaRochelle, T. Morgan, L. LaCourse and S. Miller all agreed by granting the variance, substantial justice will be done.

L. LaCourse stated the request **will not** diminish the value of the surrounding properties. S. Miller, P. LaRochelle, T. Morgan, and P. Monziona agreed that property values would not be diminished.

S. Miller stated no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property and the proposed use is a reasonable one. P. LaRochelle, T. Morgan, P. Monziona, and L. LaCourse all agreed.

**L. LaCourse moved to grant Case Z16-19 a variance to Article 400, Section 401, Table of Uses, Retail Business and Services #13 “Building Trade or Repair Shop” and #15 “Contractor Equipment Storage” in the Lakeshore Residential Zone based on the conditions that activities will be carried out as represented by the applicant.**

**T. Morgan seconded the motion with all in favor.**

## **VI. NEW APPLICATION**

<b>Z16-19 Deirdre Tibbetts, Brian Fortier, Allyson Fortier Shea</b>	<b>Map 17 Lot 11</b>	<b>Variance-Time Extension 1399 Mount Major Highway</b>
---	----------------------	---

P. Monziona called Case Z16-19 and read into record the following: Brian Fortier, Co-Owner of the property and agent for West Alton Marina, LLC, is requesting a time extension for a Variance granted on August 8, 2014 to allow a year round residence in the Recreational Service Zone. The property is located in the Recreational Service Zone.

Brian Fortier, Co-Owner of West Alton Marina and Robert Dietel, Attorney for West Alton Marina spoke on behalf of the application. Attorney Dietel stated the applicant had submitted a letter requesting the Board to grant a time extension of Case Z14-15, for the approved Variance to Article 400, Section 401, of the Alton Zoning Ordinance and permits “an accessory, year-round, winterized apartment for marina security accommodations which was originally granted on August 8, 2014, for “good cause” as provided for under RSA 674:33.

B. Fortier stated the Alton Zoning Board granted a variance with respect to his family’s property at 1399 Mount Major Highway and on behalf of himself and his two sisters, Deirdre Tibbetts and Allyson Fortier. B. Fortier reminded the Board that he and his family have been working diligently over the past two years to move forward with redevelopment plans for West Alton Marina and the surrounding properties. The development has taken substantial time and resources due to the unique challenges associated with development in and around the marina and this processes has required the applicants to put the marina security accommodations that were the subject of zoning case Z14-15, until a more comprehensive redevelopment plan could be completed. The applicants are actively seeking to proceed with the redevelopment plans and to obtain all the necessary state and municipal approvals.

R. Dietel, Attorney, stated the applicant had submitted a letter requesting this time extension rather than a new application because the New Hampshire Supreme Court and amended statute do not specify how the request for extended time be made to the local Zoning Board of Adjustments.

J. Dever, III, Code Enforcement, told the Board that at this point the Town does not have a specific Zoning Application for a Time Extension, but would be working on one. J. Dever also wanted the Board to know that notice was given to the abutters and newspaper for this Time Extension request.

**T. Morgan moved to accept Case Z16-19 as complete. S. Miller seconded the motion, with all in favor.**

P. Monziona opened for public comment for anyone who wished to speak in opposition of the time extension being granted. No public input. Closed public input for those opposed.

P. Monziona opened for public comment for anyone who wished to speak in support to the time extension being granted. No public input. Closed public input for those in support.

**S. Miller moved to grant Case Z16-19 requested Time Extension of up to two years. T. Morgan seconded with all in favor.**

## **VII. OTHER BUSINESS**

1. Previous Business: None
2. New Business: None
3. Minutes: P. Monziona stated the Board should look at the July's Draft Minutes first because they were on the Agenda. T. Morgan stated on Pg. 3, second paragraph from the bottom, it should read that there is adequate not accurate sewage and again on Pg. 5, middle of the page. P. LaRochelle stated his name needed to be corrected on Pg. 3, third paragraph from the bottom. P. Monziona state on Pg. 4, middle paragraph, P. Monziona stated that they are NOT expanding use or expanding setbacks. T. Morgan stated on Pg. 6, first paragraph, it is Mauhaut, not Mohawk. The Board was concerned about the lack of individual's names, such as Attorney Robert Dietel, and others that spoke as well as some incomplete comments, if the comments and/or names are inaudible, just note that. P. Monziona asked for "Public Input from those who Oppose the application" could be put on the top of Pg. 8. P. Monziona stated on Pg. 10, second paragraph from the top, P. Monziona felt that the request would not diminish the value. The Board would like the tapes to be reviewed and the July Minutes amended to reflect the noted changes and additional information that needs to be added.  
P. Monziona suggested the Board take a minute to look over the Draft June Minutes. T. Morgan noted in the Call to Order section, T. Morgan was listed as Chair and that should be P. Monziona. P. Monziona stated that he recused himself from Case Z16-13 because he was an abutter not that he had a relationship with the Attorney. T. Morgan stated for Case Z16-13, it is important to have the size of the sign for Clear Choice, on Pg. 4, second paragraph from the bottom, L. LaCourse felt the request would NOT diminish, on Pg. 5, the size of the sign should be noted in the motion, on Pg. 8, third paragraph, has a reasonable explanation not application. The Board would like the June Draft Minutes tapes to be reviewed, amended and resubmitted to the Board for approval.
4. Correspondence: None

## **VIII. ADJOURNEMENT**

**L. LaCourse motioned for adjournment. Second by P. LaRochelle The motion passed by unanimous vote. (4-0-0)**

The meeting adjourned at approximately 8:30 p.m.

The next meeting is scheduled for September 1, 2016 at 6:00 p.m.

Respectfully Submitted,

Traci Cameron  
Recording Secretary

Minutes approved as amended: December 1, 2016