

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Thursday, September 2, 2021, at 6:00 P.M.
Alton Town Hall**

DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. The draft will be posted as a draft copy for public informational use only.

MEMBERS PRESENT

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

OTHERS PRESENT

John Dever, III, Code Enforcement Officer
Terry McCormack, F.L. Merrill Construction
Michael Lambert, applicant
Stephanie Richard, Changing Seasons PLLC
Brad Smith, Director, Alton Bay Christian Conference Center
Ricardo Amesquita, abutter

CALL TO ORDER

Chair Lee called the meeting to order at 6:06PM.

INTRODUCTION OF BOARD MEMBERS

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

APPOINTMENT OF ALTERNATES

Mr. Monziona made a motion to appoint Mr. Hepworth as a member of the Board for this meeting in Mr. LaRochelle's absence. Mr. Rich seconded the motion. Motion passed, 4-0-0

STATEMENT OF THE APPEAL PROCESS

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

each of the standards set forth in the Zoning Ordinance have been or will be met.

APPROVAL OF AGENDA

The Board reviewed the agenda. No changes were made.

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

NEW APPLICATIONS

Case #Z21-21 F.L. Merrill Construction, Inc.- Terry McCormack, Agent for Susan & Michael Lambert, Kristine & Anthony Fay, Owners	Map 37 Lot 32 Sanctuary Lane	Variance Lakeshore Residential (LR) Zone
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A **Variance** is requested from **Article 300, Section 327. A. 2.** Of the Zoning Ordinance to permit the building within the setbacks.

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

Mr. Rich stated he would be recusing himself from this case as he has had personal business dealings with the Lamberts.

Mr. Morgan made a motion to accept the application as complete. Mr. Monziona seconded the motion. Motion passed, 4-0-0.

Gerald McCormack, F.L. Merrill Construction, stated the Town's right-of-way on Sanctuary Lane is significant; one corner of the lot is almost 50' from the road way. He stated the topography of the lot is sloped and to meet the setback would put them out on the end of slope; putting the house closer to the road would maintain the terrain. Mr. McCormack stated other homes in the area are 15 to 25' from the road.

Mr. Morgan asked how wide the right-of-way is. Mr. McCormack stated the way the property pins are located, it is almost 50' wide at one point. He stated the culvert would be extended and it seems to make more unnecessary impacts to keep the house behind the setback.

Mr. Monziona stated it looks like there are a number of residential structures on the lower end of Sanctuary Lane, which are behind the 25' setback. He noted this house would be 20' into the right-of-way setback which would put it 5' from the right-of-way boundary. It was noted the closest corner of the house would be 30' from the travel section of the right-of-way. Mr. Monziona stated he is concerned about allowing encroachments into roadway setbacks for safety reasons. He stated the right-of-way would allow the travel area to be extended even closer to the structure if the Town decided to move the road. It was confirmed Sanctuary Lane is a paved

road. Mr. McCormack suggested that for this road to be moved, there would be a drastic hook so doesn't anticipate there being future problems; he explained site distances wouldn't work better by pushing the road closer to this house.

Mr. Monzione asked if the house could be moved further from the right-of-way. Mr. McCormack explained the proposed location is the flattest area of the lot; it starts to slope further from the right-of-way. He stated that to push it out, the slopes would be more disturbed to get a level area. They are taking into consideration the 10% slope for the driveway. He stated the house will be a single story home and garage so height won't be an issue for neighbors' site distance.

Mr. Morgan asked about the topography of the lot, noting the lowest corner of the house is 80' and then it goes to 42'; he asked the grade over that distance. Mr. McCormack stated its about 35 to 40' drop from the front to the back of the house. It is another 38' drop to the corner of the lot.

Mr. McCormack stated in 1997 the Town approved the septic design and the home plans; the previous land owner never built the home and the septic expired. Mr. Monzione noted the 3-bedroom home previously proposed did not encroach on the setback. Mr. McCormack stated it's unclear what the other setbacks or regulations were at that time.

Chair Lee opened the public hearing to input in favor of the variance.

Ricardo Amesquita, abutter, stated he completely supports the proposition to build. Chair Lee asked if the view from his home will be impacted. Mr. Amesquita stated his home elevation is high, about 20 to 30' above the proposed home and doesn't have concerns with obstruction of a view.

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

Chair Lee closed the public hearing.

Discussion Case #Z21-21

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. He stated there were good explanations presented about the configuration of the road, the safety and function of the right-of-way. He stated the record establishes that although its only 5' from the boundary of the right-of-way, it is well away from the travel area of the right-of-way. The Board agreed.

Mr. Hepworth stated the request **is** in harmony with the spirit of the ordinance and the intent of the Master Plan to maintain the health, safety and character of the direct district within which it is proposed. He stated this house will conform to the homes already in the area. The Board agreed.

Mr. Morgan stated that by granting the variance, substantial justice **will be** done. He stated the benefit to the applicant outweighs any detriment to the public as a whole. The Board agreed.

Chair Lee stated the values of surrounding properties will not be diminished. He stated no evidence has been brought forward that values would be diminished and there have been no objections. The Board agreed.

Mr. Monzione 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. Monzione stated the purpose of the ordinance is not going to be undermined by what is being proposed. He stated the amount of work and expense the homeowner would have to incur to get out of the setback would create a hardship unnecessarily and would not benefit the town. The proposed use is reasonable. Mr. Morgan noted the topography creates a hardship. The Board agreed.

Mr. Morgan made a motion to grant the request for a Variance for Case #Z21-21. Mr. Hepworth seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Morgan – aye; Mr. Hepworth – aye; Chair Lee – aye. Motion passed, 4-0-0.

Case #Z21-22, Z21-23 & Z21-24 Changing Seasons Engineering PLLC, Agent for Alton Bay Christian Conference Center (ABCA), Bradley Smith- Executive Director	Map 34 Lot 33 (ABCA) Cottage #1, 2 & 3 Beacon Ave.	Special Exception Lakeshore Residential (LR) Zone
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A **Special Exception** is requested from **Article 300, Section 320 A. & D.4.** Of the Zoning Ordinance to permit the expansion of use by the construction of three cottages.

Mr. Dever stated the exhibits are common to all three cases; the applications are separate as there are three separate structures.

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

Mr. Morgan made a motion to accept the applications for Cases Z21-22, 23 and 24 as complete. Mr. Monzione seconded the motion. Motion passed, 5-0-0.

Mr. Monzione asked if these plans have been before the Zoning Board of Adjustment, noting there is already Planning Board approvals. Mr. Dever explained at the time of application, they went to the Planning Board to replace some of what is there; there is a provision in the zoning ordinance for things destroyed by fire or natural disaster for a right to replace them within a three

year period. Mr. Monziona stated everything in the conference center is nonconforming due to all the structures being on one lot and nothing can be done without ZBA approval. He stated there should have been ZBA approval prior to the applicants going to the Planning Board. Mr. Dever explained the expiration was not codified until 2013. Mr. Monziona noted the Special Excetion has expired but if nothing has changed, then they could apply the same criteria to the same request. Chair Lee stated a letter was sent in 2017 from the Town Planner to Mr. Smith, indicating criteria for the Site Plan have not been met, despite several time extensions, it would be considered null and void; any future plans for development of the site will require new applications and compliance with State and local requirements. However, the variances granted may remain valid and should be verified before any new application is submitted. The Board discussed whether the application is necessary. Mr. Morgan questioned whether the Special Exception has in fact expired. Mr. Dever stated until 2013, unless it is specified in the decision, there is no expiration. Mr. Monziona stated they don't want to make a decision that undermines a past Board decision or make a decision they aren't authorized to make, so things need to be verified; he suggested if they do in fact need to review this case, it would be beneficial to review the materials the Board reviewed previously. The Board agreed to continue the case, although the applicant may not need to come back at this time.

Mr. Rich asked the applicant if they investigated whether the variances and special exceptions are still valid. Mr. Smith stated they have not. He stated the project is very different from the plans presented ten years ago; they are only looking to add three structures and the previous approval was for twenty six. Mr. Smith stated the previous plan included massive infrastructure, roads, etc. He explained it was so extensive, comprehensive and costly so they decided to not go forward.

After this information was clarified, the Board agreed these applications are new, don't need back up criteria and are completely new plans.

Stephanie Richard, Changing Seasons PLLC, stated permission was granted to rebuild structures which had been destroyed; that did not happen and they are now looking to build three small cottages. There are existing roadways and utilities to the proposed structures. The cottages are located in the interior of the lot so won't affect abutters.

Mr. Monziona asked if the cottages would be constructed on sites where cottages existed before the fire. Mr. Smith stated the previous cottages were smaller and closer together with about five cottages in the same area where three are being proposed. Mr. Monziona confirmed they are looking at expanding the non-conforming use; the lot is non-conforming due to the number of buildings being more than one.

Mr. Rich asked how many structures on the lot are habitable. Mr. Smith stated there are 135 on the 28 acre lot. Mr. Rich asked if they plan to add more than the three proposed with these applications. Mr. Smith stated they lost 42 cottages in the fire; they are only asking to put back 3 with no plans to build other cottages. He clarified only one of the 42 have been reconstructed at this point.

Mr. Dever stated there are fire code requirements between the structures which must be 20' from drip edge to drip edge. It was confirmed these structures meet that requirement.

Ms. Richard stated the structures would be 25' from the right-of-ways.

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

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

Chair Lee closed public input.

Discussion – Case #Z21-22

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

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

Mr. Monzione stated the specific site **is** an appropriate location for the use. Mr. Monzione noted the use is not changing, it is remaining residential. The Board agreed.

Mr. Hepworth stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. It is a residential area and consistent with the use of the surrounding lots. The Board agreed.

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

Mr. Morgan stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. There is adequate off-street parking. The Board agreed.

Chair Lee stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. The Board agreed.

Mr. Monzione stated there **is** adequate area for safe and sanitary sewage disposal and water supply. The Board agreed.

Mr. Hepworth stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Rich made a motion to grant the request for a Special Exception for Case #Z21-22. Mr. Morgan seconded the motion. Roll Call Vote: Mr. Monzione – aye; Mr. Rich– aye; Mr. Morgan – aye; Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

Discussion – Case #Z21-23

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

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

Mr. Monzione stated the specific site **is** an appropriate location for the use. Mr. Monzione noted the use is not changing, it is remaining residential. The Board agreed.

Mr. Hepworth stated that actual evidence **is not** found that the property values in the district will

be reduced due to incompatible land uses. It is a residential area and consistent with the use of the surrounding lots. The Board agreed.

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

Mr. Morgan stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. There is adequate off-street parking. The Board agreed.

Chair Lee stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. The Board agreed.

Mr. Monziona stated there **is** adequate area for safe and sanitary sewage disposal and water supply. The Board agreed.

Mr. Hepworth stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Rich motion to grant the request for a Special Exception for Case #Z21-23. Mr. Morgan seconded the motion. Roll Call Vote: Mr. Monziona – aye; Mr. Rich – aye; Mr. Morgan – aye; Chair Lee – aye; Mr. Hepworth – aye. Motion passed, 5-0-0.

Discussion – Case #Z21-24

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

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

Mr. Monziona stated the specific site **is** an appropriate location for the use. Mr. Monziona noted the use is not changing, it is remaining residential. The Board agreed.

Mr. Hepworth stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. It is a residential area and consistent with the use of the surrounding lots. The Board agreed.

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

Mr. Morgan stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. There is adequate off-street parking. The Board agreed.

Chair Lee stated adequate and appropriate facilities and utilities **will** be provided to insure the proper operation of the proposed use or structure. The Board agreed.

Mr. Monziona stated there **is** adequate area for safe and sanitary sewage disposal and water supply. The Board agreed.

Mr. Hepworth stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. The Board agreed.

Mr. Rich made a motion to grant the request for a Special Exception for Case #Z21-24. Mr.

Morgan seconded the motion. Roll Call Vote: Mr. Monziona – aye; Mr. Rich– aye; Mr. Morgan – aye; Chair Lee – aye; Mr. Hepworth- aye. Motion passed, 5-0-0.

OTHER BUSINESS

1. Previous Business:
 - a. Master Plan: Updates from the Chairman

Chair Lee stated there is still a survey available on the Town website; so far there have been a good amount of responses coming in.

- b. ZAC: Updates from the Chairman

Mr. Dever stated the most recent meeting had two of five members in attendance but there were many members of public attended and they had a round table discussion, focused mainly on short term rentals. He stated they will likely be discussing a term rental ordinance in the future; they will be looking at how other towns and municipalities regulate this, with a possible permitting process through the Planning Board.

Chair Lee stated the ZAC committee needs another Zoning Board of Adjustment member on the committee.

- c. Alternative Housing Committee: Updates from the Chairman
2. New Business:
3. Approval of Minutes: ZBA meeting minutes of August 5, 2021 – No edits were made. **Mr. Monziona made a motion to approve the minutes as presented. Mr. Rich seconded the motion. Motion passed, 4-0-1.** Mr. Hepworth abstained.
4. Correspondence:

The Board reviewed a notice regarding the New Hampshire Housing Board of Appeals which was instituted in the last two years. Mr. Dever explained if an applicant is not happy with a decision by the ZBA or Planning Board, they can go to the Board of Appeals before going to court. He stated there will be a webinar coming up for further information.

ADJOURN

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

The meeting was adjourned at 8:06PM.

Respectfully Submitted,

*TOWN OF ALTON - ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MINUTES
September 2, 2021*

APPROVED

Jennifer Riel

Jennifer Riel, Recording Secretary