

Meeting Called to order at 7:00 p.m. by Chairperson, Marcella Perry

Introduction of Board Members Present: Tim Morgan, Marcella Perry-Chairperson, Tim Kinnon, Paul Monziona, David Schaeffner-Alternate, Steve Hurst-Alternate, Monica Jerkins-Planning Assistant, and Carolyn Schaeffner-Recording Secretary.

Appointment of Alternates – Steve Hurst will be appointed.

Approval of Agenda – Two cases have been requested to continue by the applicant.

Case Z06-24

Map 32 Lot 13

Variance

Gillan Marine

Alton Bay (NH Rte 11)

Application submitted by Roger Roy, MJS Engineering on behalf of Ernest Gillan, Gillan Marine to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 325(18)- Off Street Parking – Minimum Parking Requirements – to allow a marine sales business to expand the existing boat sales use without having to meet the parking requirements required of a retail establishment. The property is located within the Residential Commercial Zone.

Case Z06-25

Map 32 Lot 13

Special Exception

Gillan Marine

Alton Bay (NH Rte 11)

Application submitted by Roger Roy, MJS Engineering on behalf of Ernest Gillan, Gillan Marine to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 328.C, Height Restrictions – to allow the cupolas to exceed the 35’ maximum building height. The property is located within the Residential Commercial Zone.

Motion by M. Perry to accept the agenda with changes. Second T. Kinnon. Vote unanimous.

Statement of the Appeal Process – read by the Chairperson.

The Chairman 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 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 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.

Case Z06-28

Map 38 Lot 21-1

Administrative Appeal

Stephen Bell

317 Mount Major Highway (NH Rte 11)

Application submitted by Stephen Bell to appeal an administrative decision made by the Code Officer based on Town of Alton Zoning Ordinance 2005 Article 200, Definitions – Greenhouses – that defines greenhouses as commercial space. The property is located within the Rural Zone.

Present for this case Stephen Bell.

Mr. Bell expressed his desire to withdraw this application for an administrative decision.

No action taken. Application is withdrawn.

Case Z06-27
Stephen Bell

Map 38 Lot 21-1

Variance
317 Mount Major Highway (NH Rte 11)

Application submitted by Stephen Bell to request a variance from the Town of Alton Zoning Ordinance 2006 Article 300, Section 325, Off Street Parking – Minimum Parking Requirements – to allow a greenhouse business to add additional greenhouse space without having to meet the parking requirements required of a retail establishment. The property is located within the Rural Zone.

Present for this case – Stephen Bell, owner of Precious Gardens

Motion by T. Morgan to accept the application for Case Z06-27. Second by T. Kinnon. Vote unanimous.

No Planner comments with this application.

S. Bell stated that he feels his greenhouses are for agricultural and not retail. Does not feel he needs to add more parking when adding an additional greenhouse that is for agricultural purposes only.

T. Kinnon asked if customers are allowed to go into the greenhouses.

S. Bell confirmed yes but only to select product and then they go to the retail store to purchase items.

P. Monziona asked why this is not characterized as retail.

S. Bell stated because plants are grown there and then opened up to the public.

Paul asked if this new structure is limited to customer availability.

S. Bell answered yes.

M. Perry asked what the lot size was.

S. Bell stated 3.5 acres of land.

M. Perry asked what he is required for parking.

S. Bell informed the original plan showed 19 parking spaces. A recent survey shows 17 spaces. 8 parking spaced are out back for the employees.

T Morgan referred to a report from office of State Planning on page 1 referred to RSA 672.1 and on page 5 the State Planning Office in middle of the page addresses definition of greenhouses with distinctions between types of greenhouses with regard to their commercial aspects.

P. Monziona asked if someone were to determine the greenhouse needed parking, how many spaces would be required.

S. Bell stated they would have to add 6-8 spaces for the dimension of the greenhouse which is 28x100.

M. Jerkins added that if this variance is granted tonight the applicant will still need to go to the Planning Board for Site Plan approval.

T. Kinnon asked for clarification from S. Bell on where the new greenhouse will be going

S. Bell described plans that were distributed to the Board previously.

Open to the public in favor.
None seen or heard, closed

Open to the public in opposition.
None seen or heard, closed.

Board went into deliberations.
The Board agreed on all points of Variance Worksheet.

Motion by T. Kinnon to approve case Z06-27 for a Variance. Second by P. Monziona. Vote unanimous.

**Case Z06-26
Barlo Signs**

Map 8 Lot 48

**Variance
12 Dot 3 Road**

Application submitted by Barlo Signs on behalf of Alton Motorsports to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 340 (E) – Sign Regulations – to allow an internally illuminated sign to exceed 24 square feet. The property is located within the Residential Commercial Zone.

Planners Comments: special exception approved in 1973, request to modify the same special exception was denied in 1990. In 1991 a special exception was granted for light industry to be allowed on subject parcel. The Planning Board approved a Site Plan in May of 1995 for a boat sales facility. In 1998 the Zoning Board denied a variance to allow a sign that did not meet the height or square footage requirement of the Zoning Ordinances. In April 2004 a special exception was granted to allow for the construction and operation of a car wash facility. In June 2004 the Planning Board granted conditional approval of the Site Plan for the car wash.

The applicant proposes to construct a 40 sq. ft. internal illuminated sign to identify Alton Motor Sports. The applicant has supplied colored drawings of the proposal.

Motion by M. Perry to accept the application for case Z06-26. Second by T. Morgan. Vote unanimous.

Present for this case: Don Reed-employed by Barlow Signs and Brad Bissell.

Don Reed described the sign to the Board. Sign will display the time and temperature unit. On the side are decorative flames. Sign is 1 feet overall below the 16 ft allowed. 32 feet back off the road. Feel coming before the board to ask for 16 ft of hardship. Because the building is set back to far it is hard to put signage on the building itself. Feels sign is appropriate, identifying the type of business. Feels granting this variance is in the public interest. Noting the existing sign is very difficult to see.

B. Bissell daughter running the business and need more exposure. Doing marketing on the internet but also need a better sign. Wants to keep this a family business, tasteful to match the town atmosphere.

D. Reed noted asking for additional square footage and there is no other way to achieve what they are asking.

P. Monziona asked if the old sign would come down.

D. Reed affirmed yes.

P. Monziona asked of the square footage area that the display portion of the sign takes up.

D. Reed stated 40 square feet.

In referring to the picture, discussion of what would be illuminated. The illuminated portion is Close to 3.5 x 8.

Discussion of the plow shaped of the sign.

Open to public in favor.
None seen or heard, closed.

Open to public in opposition.
None seen or heard, closed.

Board moved to deliberation.

1. Area variance contrary to public interest (Morgan, Perry)
Variance in the pubic interest (Kinnon, Monziona, Hurst)

2. Request is not in harmony with the spirit of the ordinance (Perry, Morgan)
Sign in harmony with the spirit of the ordinance (Kinnon, Monziona, and Hurst)

3. Substantial justice will be done (Kinnon, Monziona, and Hurst)

Substantial justice will not be done (Morgan, Perry)

4. Variance will not diminish the value of surrounding properties. All agree.

5. Variance is needed (Hurst, Kinnon, and Monziona)

Variance is not needed (Morgan, Perry)

Motion by T. Kinnon to approve case Z06-26 for an area variance. Second by P. Monziona.
Three in favor, two opposed. Motion carries.

**Case Z06-29
Posnack**

Map 64 Lot 18

**Variance
Smith Point Road**

Application submitted by Anne and Alan Posnack to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 327(3) – to allow a pre-existing wooden walkway to remain within the 10' property line setback. The property is located within the Lakeshore Residential Zone.

Planner comments –

Motion by M. Perry to accept the application for case Z06-29. Second by P. Monziona. Vote unanimous.

Present for this case: Al Posnack, David Merrill

Purchased cottage a year ago today, moved in last month. Renovating to reserve history. 5 structures on the properties. Asking to preserve a walkway. Described pictures of location.

T. Kinnon asked when was the cottage approximately constructed.

A. Posnack informed approximately 1930.

T. Kinnon asked if they have found any other entry doors when remodeling.

A. Posnack informed they found a door on the south side and this was connected with the house.

Discussion regarding photographs provided.

Open to public in favor.

Fred Dinkin, abutter and not opposed to this door which is used for safety reasons.

Public session closed for comments in favor.

Open to public in opposition.

None seen or heard, closed.

Board went into deliberations.

The Board agreed on all points of Variance Worksheet.

Motion by M. Perry to approved case Z06-29 for a variance. Second by S. Hurst. Vote unanimous.

OTHER BUSINESS:

Approval of Minutes: May 24, 2006; July 25, 2006; August 3, 2006

Motion by M. Perry to approve Minutes of July 25, 2006 with changes (changes marked by the Planning Assistant copy). Seconded by P. Monziona. 4 favor. Kinnon abstained.

Motion by M. Perry to approve the Minutes of August 3, 2006 with changes (changes marked by the Planning Assistant copy). Second by T. Kinnon, 4 in favor, 1 abstained.

Motion by T. Kinnon to approved minutes of May 24, 2006 with no changes. Second by M. Perry. Vote unanimous.

Old Business

M. Jerkins noted to Board the cell tower information that has been provided to the Board.

Letter from Brant – read into record (letter from Tanguay)

Dear Madam Chairperson and members of the Board.

Thank you for your time and attention at the August 3, 2006 ZBA hearing. We appreciate the deliberative process and are thankful for your favorable ruling on our Appeal of Administrative Decision on the issue of setbacks. Nevertheless, I must voice my objection to the Board's decision not to rule on the 2 other matter pending before the Board until it have the opportunity to discuss this matter with legal counsel. This matter has been before the Town Boards for more than a year. It was before the Planning Board for Conceptual Hearing in the summer of 2005. Formal application to the Planning Board was in September 2005 with acceptance in 2006. Thereafter, the applicant met with the Planning Board every month until the Board's denial of the application in February 2006 for failure to satisfy setback requirements. Throughout the Planning Board process the matter was routinely continued to the subsequent month with the explanation that input from legal counsel was required. After the Planning Board denial, appeal was made to the ZBA in March. The matter was first on the ZBA agenda in April when the applications were accepted, however, deliberations were continued pending an appeal by the Selectmen to DOT seeking to have the applicant's driveway permit revoked. The DOT denied the appeal. Even though the denial was in May, the matter was not returned to the ZBA agenda until August. Then after hearing the first of three appeals, the Board decided not to proceed with either of the other two pending input from counsel. It is difficult to understand what input from counsel would be required on August 3, 2006, when the matter had been on the ZBA docket since March. I trust that you will seek the advise of counsel and then proceed expeditiously. I would hope that the advise from the counsel is that a hearing is not required on either item and that the advise will be 1. That this is condominium conversion subject to the provisions of section 229.a and not subject to the provisions of section 229.b, and 2. a special exception is not required as condominium conversion does not constitute a change of use. Alternatively, if it is a change in use,

it is a change to a conforming use and a special exception is not required. Yours truly, William L. Tanguay.

M. Perry noted a letter from Marilyn and David Slade and asked the Board to read on their own for the cell tower meeting.

M. Jerkins noted a bulletin produced from the NH Municipal Association outlining the final results of the 2006 Legislative Session with recent changes to RSAs on land use laws. Also from OEP a notice of the Fall Conference.

M. Perry encouraged both alternates to send a letter to selectmen to become a fulltime member.

New Business: none.

Motion by P. Monziona to adjourn. Second by S. Hurst. Vote unanimous.

Respectfully submitted,
Carolyn B. Schaeffner
Recording Secretary