

**TOWN OF ALTON  
ZONING BOARD OF ADJUSTMENT  
PUBLIC HEARING  
Thursday, October 6, 2022, at 6:00 P.M.  
Alton Town Hall**

**MEMBERS PRESENT**

Thomas Lee, Chair  
Tim Morgan, Member  
Paul LaRochelle, Selectman's Representative

Mark Manning, Member- excused absence  
Frank Rich, Member/clerk - excused absence  
Mike Hepworth, Member – excused absence

**OTHERS PRESENT**

Jessica Call, Town Planner  
Paul Zuzgo, Prospect Mountain Survey, Agent  
Dexter & Holly Brown, applicants

**CALL TO ORDER**

Chair Lee called the meeting to order at 6:02PM.

**INTRODUCTION OF BOARD MEMBERS**

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

**APPOINTMENT OF ALTERNATES**

No alternate members present.

**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 that 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.

Ms. Call stated the Kinnicutt application has been continued due to only three members of the

Board being present.

**Mr. LaRochelle motioned to approve the agenda as amended. Mr. Morgan seconded the motion. Motion passed, 3-0-0.**

**NEW APPLICATIONS**

<b>Case #Z22-21 Kinnicutt Family Trust, c/o Mark &amp; Corinne Kinnicutt, Ttees., Owners</b>	<b>Map 56 Lot 35 174 Woodlands Road</b>	<b>Variance Lakeshore Residential (LR) Zone</b>
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A Variance is requested to **Article 300, Section 327 A. 2** of the Zoning Ordinance to permit the construction of a garage 16.2' away from the property line at its closest point.

*Continued to November 3, 2022.*

<b>Case #Z22-22, 23 &amp; 24 Prospect Mountain Survey, Agent for Dexter &amp; Holly Brown, Owners</b>	<b>Map 5 Lot 6 116 Stockbridge Corner Road</b>	<b>Variances Rural (RU) Zone</b>
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**VARIANCES** are requested from **Article 400, Sections 452 A., B., & D.** of the Zoning Ordinance to permit a Lot Line Adjustment (LLA), which will increase the size of an existing lot that is nonconforming for Area, Frontage, and Minimum Buildable Area (0.97ac/114.89').

Chair Lee stated since there are only three members of the Board present, the applicants have the right to have their case heard by a full board and they have the right to continue to the next meeting. The applicants indicated they want to continue.

Mr. Zuzgo stated they are making a nonconforming lot, less nonconforming; he explained Mr. Dever reviewed the case and it was his determination that a variance is needed for these three sections.

Fab Cusson, Bethel Builders, stated he has done a lot of lot line adjustments and was surprised at this determination, noting they have been before the Planning Board as well. He reiterated they are making a nonconforming lot, less nonconforming.

Mr. Zuzgo stated he believes this further variance request is a result of Mr. Dever's interpretation of a new law and reiterated there will be no new lot being created; he stated the nonconforming lot which is under an acre, will have more acreage and more road frontage but it still doesn't meet the requirement for 200' of frontage and 2 acres. Mr. Cusson stated there is currently a house on this lot; the only thing changing will be the lot line. He stated he had extensive discussions with Mr. Dever on this; there is nothing in the ordinance that prohibits this adjustment, but Mr. Dever's opinion seems to be based on precedence and legal advice.

Mr. Zuzgo presented the proposed lot line adjustment plans; he stated they can't meet 75% of upland on this land. The existing frontage is 115'; the proposed frontage would be 151'. The old lot area was .97 acres and the proposed is 1.15 acres. The minimum lot area for zone is 2 acres with 75% being upland which cannot be met with 1.5 acres; Mr. Zuzgo stated there is about 4,000 square feet of wetlands in the back, few areas with slopes over 25%.

Chair Lee noted the previous case was an equitable waiver for the front setback; it was clarified these variances were not requested at that time. Ms. Call explained the case was reviewed by the Planning Board but the Planning Board cannot waive any zoning requirements which necessitated the case before the Zoning Board.

The Board reviewed the minimum lot requirements. It was confirmed this proposed lot will not meet the minimum lot size. Mr. Zuzgo stated the current house is 15' from Stockbridge Corner Road; he explained that calculation is based on the right-of-way setback. It was confirmed that no new lot is being created; the lot is existing and there is a house on it. The only change will be a boundary line.

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.

Mr. Morgan proposed using one worksheet for the three variance requests. The Board agreed.

***Discussion – Case #Z22-22, 23 & 24***

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

Chair Lee stated granting the variance **would not** be contrary to the public interest. He stated this variance is making a nonconforming lot more conforming; based on the history of the property the frontage was never proper to begin with, but it wasn't a problem until it was recently surveyed. He stated there are no issues with the public and no abutters indicated concern. Mr. Morgan stated this application is not a substantial deviation from the ordinance and there are other lots in the area that are similar. The Board agreed, 3-0-0.

Mr. LaRochelle 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 is a nonconforming lot which will become more conforming with the ordinance, with the lot line adjustment. The Board agreed, 3-0-0.

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 Town of Alton. The Board agreed, 3-0-0.

Chair Lee stated the values of surrounding properties **will not be** diminished. There has been no evidence presented that would indicate values would be diminished. He stated the value will be improved with the lot becoming more conforming. Mr. LaRochelle stated no factual evidence was presented to indicate values would be diminished. The Board agreed, 3-0-0.

Mr. LaRochelle 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. LaRochelle stated the proposed use is reasonable. Mr. Morgan stated the proposed use is not changing; the purposes of this subparagraph is for when new lots are created but this lot has been in existence for a while and is being increased; characteristics of the lot are a hardship without the variance. The Board agreed, 3-0-0.

**Mr. Morgan made a motion to grant the request for a Variance for Cases #Z22-22, 23 & 24. Mr. LaRochelle seconded the motion. Motion passed, 3-0-0.**

**OTHER BUSINESS**

1. Previous Business: None.
2. New Business: None.
  - a. Appointment for the vice-chair seat on the ZBA – Ms. Call stated Mr. Monzione was vice-chair but with his resignation, an appointment is needed. Chair Lee noted Mr. Rich was appointed at a recent meeting; Mr. Manning was also appointed as a full member for the open seat.
3. Approval of Minutes: Meeting of September 1, 2022– Postponed.
4. Correspondence: None.

The meeting was adjourned at 6:30PM.

Respectfully Submitted,

*Jennifer Riel*

Jennifer Riel, Recording Secretary