

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
November 5, 2015
Approved as amended 12-3-15**

(6:04 p.m.) Timothy Morgan, Chair, announced that there were four members of the board present and that they were awaiting another member to join them, Steve Miller, but that they would start the meeting with some of their business items on their agenda.

I. CALL TO ORDER

Timothy Morgan, Chair, called the meeting to order at 6:07 p.m.

The following members were present: John Dever III, Code Enforcement Officer; Timothy Morgan, Chair, Paul Monzione, Vice Chair, Lou LaCourse, Member, and Paul Larochelle, Member. Absent at the time of roll call: Steve Miller. (Joined the meeting at 6:47 p.m.)

II. 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.

III. APPROVAL OF THE AGENDA

J. Dever announced that Z15-25, Alton Bay Campmeeting Association and Z15-31, Ron Rubbico, both requested to table their cases because of a schedule conflict. Both cases will be on the December meeting agenda.

P. Monzione discussed the number of cases that were on the agenda and the past-practice of the board not to start new cases after 10:00 p.m. T. Morgan asked the meeting attendees if they would like to table their case for the next meeting. There was a question about if this would be a continuance. No attendees wished to table their case.

P. Monziona motioned to move the agenda, as amended; second by P. Larochelle, which passed unanimously. (4-0-0)

VI. NEW APPLICATIONS

Z15-21 & Z15-22 Harold W. Finethy, III Revocable Trust	Map 54, Lot 9	Special Exception & Variance 12 Roger Street
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On behalf of the Harold W. Finethy III, Revocable Trust, Bryan L. Bailey, LLS, is requesting a Special Exception to Article 300, Section 320 A. 4., and a Variance to Article 400, Section 401, to permit the relocation and expansion of a non-confirming structure and use a two bedroom, seasonal guest camp, to a larger overall building footprint than existing, and to year round use. The requested variance is to allow continued residential use of a lot in a zoning district where non-commercial residential uses are not permitted. This property is located in the Recreation Service (RS) Zone.

P. Monziona motioned to accept the application for Z15-21 and Z15-22 as complete; second by L. LaCourse, which passed unanimously. (4-0-0.)

Bryan L. Bailey, LLS, spoke about the request for a special exception (Z15-21) to Article 300, Section 320 A. 4., Expansion of Use; to permit the replacement and expansion of a seasonal two bedroom guest camp which is both a non-confirming structure and use; to a year-round use with a larger overall build footprint. The new structure will become conforming for setbacks. The use is nonconforming because there are two grandfathered dwelling units presently on the lot and non-commercial residential use is not allowed.

The applicant is also requesting a variance (Z15-22) to Article 400; Section 401, Table of Uses, to permit the replacement of a single family dwelling within the Recreation Service District in which non-commercial residential uses are not permitted.

Brian L. Bailey reviewed the non-conforming issues, structures and lots. He noted that the Finethy's are proposing to replace the existing seasonal cottage on the lot with a year round dwelling. The present cottage encroaches into the 25' ROW setback, the new cottage (which is proposed to be larger) will become conforming for setbacks. The need for a variance stems from the fact that the property is located in the Recreational Services Zone, in which noncommercial residential uses are not allowed. A new septic system has been designed and will be installed.

P. Monziona requested to discuss the Special Exception first. He asked about the nonconforming use of the property, lot, and building. J. Dever noted that the Zone was Recreation Service. The lot is 0.706 ac/30,761 sf., and Brian L. Bailey noted that this was a guest house and that the new structure would be a guest house, as well. The use was established when the dwelling was originally built in 1950.

T. Morgan opened the floor to public input; there were no attendees to speak in favor or to speak against the Special Exception.

T. Morgan moved the board to the worksheet:

P. Larochelle stated that the plan **had been accepted** in accordance with the Town of Alton Zoning Ordinance Section 520, T. Morgan, P. Monziona, and L. LaCourse agreed.

T. Morgan stated that the specific site **is** an appropriate location for the use. P. Monziona, L. LaCourse, and P. Larochelle agreed.

P. Monziona stated that factual evidence **is not** found that the property values in the district will be reduced due to incompatible use. L. LaCourse, P. Larochelle, and T. Morgan agreed.

L. LaCourse stated that there **is no** valid objection from abutters based on demonstrable fact. He noted that there were no abutters speaking against the application. P. Larochelle, T. Morgan, and P. Monziona agreed.

P. Larochelle stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-stage parking. T. Morgan, P. Monziona, and L. LaCourse all agreed.

T. Morgan stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of the proposed use or structure. He stated that the renovation would improve the structure. P. Monziona agreed and noted that it would allow the owners to modernize the dwelling. L. LaCourse noted that a new septic would be installed and agreed. P. Larochelle agreed.

P. Monziona stated that the sewage **is** accurate area for safe and sanitary sewage disposal and water supply. He noted that a new septic would be installed. L. LaCourse agreed. P. Larochelle agreed and noted that there was a well for water, not town water. T. Morgan agreed.

L. LaCourse stated that the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. P. Larochelle agreed. T. Morgan noted that the nonconforming dwelling units were grandfathered and agreed. P. Monziona agreed.

P. Monziona motioned to grant the special exception; second by P. Larochelle. L. LaCourse suggested amending the motion to include the condition that the requirement of the fire department are followed, and P. Monziona agreed. P. Monziona restated the motion to grant the special exception requested in application Z15-21, as requested, with the condition that the requirements of the Alton Fire Department are followed; second on the amended motion by P. Larochelle. Motion passed unanimously. (4-0-0.)

[Recorder's note: At approximately 6:47 p.m., S. Miller joined the meeting.]

Z15-23 Diane Pierce & Joan Katsoulakos	Map 41; Lot 28	Special Exception 26 Sandpeep Lane
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On behalf of Diane Pierce and Joan Katsoulakos, Glen Pierce is requesting a Special Exception to Article 300; Section 320 B. 5., to allow the replacement of an existing non-conforming structure which presently encroaches into the 30' Shorefront setback, with a new home that will have less encroachment, and be more conforming to setbacks overall. This property is located in the Lakeshore Residential (LR) Zone.

P. Monziona discussed the completeness of the application. Glen and Diane Pierce presented the request for a Special Exception. Glen Pierce noted that he had a letter from Joan Katsoulakos. T. Morgan asked that the letter was submitted for the record. The board reviewed the application.

P. Larochelle motioned to accept the application for case Z15-23 as complete; second by P. Monziona. The motion passed unanimously. (5-0-0.)

Glen Pierce discussed the application. The property is 19,602 sf, waterfront property on Echo Point, and the rear of the property is wetlands. The request to permit the building of a 12' x 45' deck, less than 30' from the setback. He stated that they are replacing an existing residence that has been on the property for over fifty years that is currently within 12' of the reference line and moving it back to a minimum setback of 22.5' to the deck and 34.5' to the foundation. The maximum setback of the deck will be 27'. He noted they are upgrading from a run-down existing residence to a brand-new residence, of the same use. The new building would be in compliance; the request for the special exception is for a deck. There was discussion about the placement of the proposed deck on the property, and where it would be placed in the encroachment area.

S. Miller asked if the under-part of the deck would be used for storage, if there were pillars under it, or if there would be any accessibility or use for the under-part of the deck; Glen Pierce responded that there would not be. The new structure will have a smaller footprint, but it will be two-story. The house and the deck are considered one structure; L. LaCourse noted that the board was here for the structure, not just the deck. Glen Pierce discussed the history of the property and the structure. There will be no increase in the number of bedrooms. The current structure is a seasonal-use structure and has part of a shared-well for water. It could be used year-round but would be expensive to heat year-round, as is currently built.

T. Morgan opened the floor for public input; there was no one to speak for the request and no one to speak against the request.

Glen Pierce discussed the concerns from the Alton Fire Department about the driveway, and reported that the driveway is rated for 80,000 lb. There was discussion about the use of the road and driveway for the property.

T. Morgan moved the board to the worksheet:

L. Course stated that the plan **had been accepted** in accordance with the Town of Alton Zoning Ordinance Section 520, S. Miller, P. Larochelle, T. Morgan, and P. Monziona agreed.

S. Miller stated that the specific site is an appropriate location for the use. L. LaCourse, P. Larochelle, T. Morgan, agreed. P. Monziona agreed and noted that the residence would be upgraded, improving the property in both appearance and set-backs, as it now exists.

P. Larochelle stated that factual evidence is not found that the property values in the district will be reduced due to incompatible use. T. Morgan agreed. P. Monziona noted that the facilities would be upgraded, which would enhance the use and value of the property. L. LaCourse and S. Miller agreed.

T. Morgan stated that there is no valid objection from abutters based on demonstrable fact. He noted that there were no abutters speaking against the application. P. Larochelle, P. Monziona, S. Miller, and L. LaCourse all agreed.

P. Monziona stated that there is no undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-stage parking. L. LaCourse, S. Miller, P. Larochelle, and T. Morgan all agreed.

L. LaCourse stated that adequate and appropriate facilities and utilities will be provided to ensure proper operation of the proposed use or structure. He stated that the renovation would improve the structure. S. Miller, P. Rochelle, and T. Morgan agreed. P. Monziona noted that all existing facilities and utilities would be replaced.

S. Miller stated that the sewage is accurate area for safe and sanitary sewage disposal and water supply. He noted that there were no changes to the number of bedrooms. P. Larochelle agreed. T. Morgan noted that all state and local approvals were in place. P. Monziona, and L. LaCourse agreed.

P. LaRochelle stated that the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. The improvements will be more conforming. T. Morgan, P. Monziona, L. LaCourse, and S. Miller all agreed.

P. Larochelle motioned to grant the special exception for case Z15-23, with the constraints of the deputy fire chief's recommendations are followed; second by S. Miller. Motion passed unanimously. (5-0-0)

Z15-24 New State Realty Management LLC	Map 34; Lot 39	Variance 404 Main Street
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P. Monziona noted that he had a professional relationship with Stephen T. Nix, Esq., and recused himself from the case.

T. Morgan disclosed that he had had professional dealings in the past, and stated he could recuse himself from the proceedings; S. Miller stated he felt it would not be an issue. There were no objections or comments from the other board members in response to T. Morgan's statement

On behalf of New State Realty Management, LLC, Attorney Stephen T. Nix, Esq., is requesting a variance to Article 400; Section 401, to permit the establishment of a tattoo studio on the second floor of the building (Bear's Bizzy Corner Store). This property is located in the Residential Commercial (RC) Zone.

Motion by L. LaCourse to accept the application for case Z15-24 as complete; second by S. Miller. The motioned passed by unanimous vote. (4-0-0.)

Stephen T. Nix, Esq. reviewed the history of the property. The property is well known for years as "Busy Corner Store", recently re-named "Bear's Bizzy Corner Store." The building is surrounded by other commercial buildings or businesses including the Irwin Marina, JP China Restaurant, the U.S. Post Office, Jay's Miniature Golf Course, and a real estate office. The second floor of the store has been used as a residential apartment, a use that is also permitted. The owner now intends to use that portion of the second floor as an additional business, specifically a tattoo studio.

Attorney Nix reviewed the NH RSA's for rules and regulations for tattoos, and the Alton Zoning Ordinances for art studios. He asked the board to consider that art studios are allowed, and showed that body art, tattooing, was art according to the state's statutes. S. Miller asked if every part of the body was considered a "canvas" by the position that Attorney Nix provided. Attorney Nix responded to confirm that he felt it was so. Attorney Nix spoke about the state regulations and local control over the licensing of tattoo artists.

S. Miller asked if there were any constraints for the type of business, client, or advertising that could be done by the business. T. Morgan stated the ordinance was silent on these things and felt that they were on the threshold of deciding if the spirit of the ordinance included this type of studio. S. Miller asked if the request was denied, if it would be a defensible case on discrimination against the business; T. Morgan responded that they would be reviewing case law on this issue. L. LaCourse stated that he was not against or in favor of tattoos, but noted that the area was a very family-oriented area. P. Larochele felt that it was important to fall within the guidelines of the state. He felt that because the business was on the second floor, that what was going on inside the building would not be visible to anyone on the ground.

S. Miller asked how this would be classified in the Master Plan; J. Dever stated that it is keeping with it being commercial, in an established commercial area. Discussion ensued about the ordinance for art studios and the state's statutes for tattoo studios.

L. Lacourse motioned to accept the business under the definition of an art studio; second by S. Miller. There was no further discussion. The motion passed by a vote of 4-0-1.

There were several objections and outbursts from members of the audience that there was no public input. J. Dever asked the members of the public to return to their seats or to leave the room and they felt it necessary to leave the room. P. Monziona returned to the board table.

Z15-24 & Z15-28 M.H. LaChance Jr. & L.G. LaChance Living Trust	Map 49; Lot 14	Special Exception & Variance 7 Dore Drive
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On behalf of the MH LaChance, Jr., and L.G. LaChance Living Trust, Maurice and Lucille LaChance Trustees, Thomas W. Varney Engineering is requesting a Special Exception to Article 300; Section 320 B, Section 320 B.2. (a) & (c), to permit the construction of a full foundation under the existing home; and a Variance to Article 300, Section 327 a. 2., to allow the construction of a porch facing the lake in which will encroach an additional 8' into the 25' right of way/property line setback. This property is located in the Lakeshore Residential (LR) Zone.

P. Monziona motioned to approve the application Z15-27 & Z15-28 as complete; second by L. LaCourse. Motion passed unanimously. (5-0-0)

Thomas Varney reported that the house will be demolished and replaced with a house with a higher elevation. The result house will have similar elevation and in the same location. The driveway will be the same, and there will be new access to the basement, away from the street. A new well and septic will be installed and other utilities are already existing. The septic design is pending. An eight foot wide porch, facing the lake, will be constructed.

P. Monziona was concerned that the correct criteria was not realized in the notice or in the application. He noted that the current house would be demolished but that the application read the house would be "raised"; T. Varney noted that the new building would be two feet higher, but that the old building would be demolished.

There was discussion about the proposed increase height of the building and the grandfathering of the new structure. It was felt that the special exception should be addressed before the variance.

P. Monziona spoke about the new zoning regulations and noted that there were other sections that apply to the demolition and rebuilding of the structure; Maurice LaChance stated he was surprised by this new information and noted he had met with J. Dever about the issue. J. Dever stated it was his understanding that the building would be raised up (increase elevation) by two feet, and that a porch would be added.

T. Morgan discussed possibly continuing the requests at the next meeting. T. Varney stated he would like to take care of the Special Exception at this meeting.

P. Monziona discussed the non-conformity of the current structure and noted that the proposal would result in greater non-conformity. T. Morgan suggested that the application be continued to the next meeting. T. Morgan asked if the letter from Keywaydin Park Association had been reviewed and if T. Varney would be able to address the issue. The next meeting is December 3, 2015.

P. Monziona motioned, at the request of the applicant, for a continuance of case Z15-28; second by S. Miller. There was no further discussion. The motioned passed by a unanimous vote. (5-0-0).

Z15-29 Laurence Taylor	Map 34; Lot 33-87	Special Exception 8 Oak Hill Road
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On behalf of Laurence Taylor, Roger Sample is requesting a Special Exception to Article 300; Section 320 A. 4. to permit the expansion of a non-conforming use. Proposed is an expansion of the living area of the existing home which will encompass the existing deck. This property is located in the Residential (R) Zone.

The board reviewed the application. P. Monziona asked if there was a letter of permission from the Alton Bay Campmeeting Association. J. Dever stated that the association was essentially the property owner and was giving permission for the permit.

S. Miller motioned to accept application Z15-29 as complete; second by P. Larochelle. The motion passed by unanimous vote. (5-0-0).

Roger Sample reported that the Taylors would like to expand over the existing deck. This expansion will provide more kitchen space for them and dining area. The addition will also allow them to bring the laundry from the basement to the first floor through not a large addition, there is enough room for a small mud room and laundry. He noted that many houses in the area had recently been upgraded. He reported that no bedrooms would be added to the property. The proposed addition is 8' by 18'. There is no propane tank on the property; the house is heated with oil. The addition will not change the driveway or parking. There were no concerns from the Alton Fire Department.

T. Morgan opened the floor for public input; there was no one to speak in favor or to speak against the application.

T. Morgan moved the board to the worksheet:

S. Miller stated that the plan ***had been accepted*** in accordance with the Town of Alton Zoning Ordinance Section 520. P. Larochelle, T. Morgan, P. Monziona, and L. LaCourse all agreed.

P. Larochelle stated that the specific site ***is*** an appropriate location for the use. T. Morgan, P. Monziona, L. LaCourse, and S. Miller agreed.

T. Morgan stated that factual evidence ***is not*** found that the property values in the district will be reduced due to incompatible use. P. Monziona, L. LaCourse, S. Miller, and P. Larochelle all agreed.

P. Monziona stated that there ***is no*** valid objection from abutters based on demonstrable fact. He noted that there were no abutters speaking against the application. L. LaCourse, S. Miller, P. Larochelle, and T. Morgan all agreed.

L. LaCourse stated that there ***is no*** undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-stage parking. He noted that everything that had to do with pedestrian or vehicular traffic was not changing. S. Miller, P. Larochele, T. Morgan, and P. Monziona all agreed.

S. Miller stated that adequate and appropriate facilities and utilities ***will*** be provided to ensure proper operation of the proposed use or structure. He noted that no bedrooms would be added to the structure. P. Larochele, T. Morgan, P. Monziona, and L. LaCourse agreed.

P. Larochele stated that the sewage ***is*** accurate area for safe and sanitary sewage disposal and water supply. T. Morgan, P. Monziona, L. LaCourse, and S. Miller agreed.

T. Morgan stated that the proposed use or structure ***is*** consistent with the spirit of this ordinance and the intent of the Master Plan. P. Monziona stated that given the unique characteristics of the conference center, he would agree. L. LaCourse, S. Miller, and P. Rochelle agreed.

P. Larochele motioned to grant the special exception for case Z15-29; second by L. LaCourse. Motion passed unanimously. (5-0-0)

Z15-30 W. W. Inglewood Trust LLC	Map 27; Lot 17	Special Exception 77 Main Street
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On behalf of W.W. Inglewood Trust, LLC, Paul F. Zuzgo, LLS, is requesting a Special Exception to Article 400; Section 401; Table of uses, Retail and Business Services #4; to permit an “Automotive and Truck Repair Garage” as defined in the Zoning Ordinance, in the Residential Commercial Zone. This property is located in the Residential Commercial Zone (RC).

P. Monziona motioned to accept application Z15-30 as complete; second by L. LaCourse. The motion passed by unanimous vote. (5-0-0).

Scott Williams, owner of W. W. Inglewood Trust, LLC, stated that Paul F. Zuzgo, LLS, was not available this evening, so he would be presenting the request. He described the proposed automotive and truck repair garage, on the rear of the former Fiddleheads/McGrath’s property. There was discussion about the management of waste oil and disposal. S. Williams stated that

there would be no floor drains, and discussed what had been covered already with his meetings with the Planning Board.

S. Miller asked about parking and storage for the cars. S. Williams stated he would not allow a lot of cars to be stored around the business and wanted to keep the area clean. There was discussion about the possible impact that the business would have on the Alton Central School, which is an abutter to the property and S. Williams addressed the concerns of compliance for chemical storage, noise, and traffic in the area.

T. Morgan opened the discussion to public input:

Mary Murphy, 77 Main Street, spoke in favor of the request. She stated that she lived across the street from the property and that she had spoke with the neighbors, who all felt the businesses should be supported.

There were no comments against the request.

S. Williams noted that the property is named in the Master Plan as one that could be developed. He spoke about the placement of the parking and that the buildings where the businesses would be would shield the residential area.

T. Morgan moved the board to the worksheet:

P. Larochelle stated that the plan **had been accepted** in accordance with the Town of Alton Zoning Ordinance Section 520. T. Morgan, P. Monziona, L. LaCourse, and S. Miller all agreed.

T. Morgan stated that the specific site **is** an appropriate location for the use. P. Monziona, L. LaCourse, S. Miller and P. Larochelle all agreed.

P. Monziona stated that factual evidence **is not** found that the property values in the district will be reduced due to incompatible use. L. LaCourse, S. Miller, P. Larochelle, and T. Morgan all agreed.

L. LaCourse stated that there **is no** valid objection from abutters based on demonstrable fact. He noted that one abutter was in favor of the business. S. Miller noted that the abutter speaking in favor of the business was representing the other abutters in the area and agreed. P. Larochelle, T. Morgan, and P. Monziona agreed.

S. Miller stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic including the location/design of access ways and off-street parking. He noted that the applicant had stated he would police the area. P. Larochelle, T. Morgan, P. Monziona, and L. LaCourse all agreed.

P. Larochelle stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of the proposed use or structure. He noted this was an existing building and existing system. T. Morgan, P. Monziona, and L. LaCourse agreed. S. Miller stated that he

had addressed the issues of hazardous waste would be taken care of according to state regulations.

T. Morgan stated that the sewage is accurate area for safe and sanitary sewage disposal and water supply. P. Monziona stated that town water is available there, and that there would be proper disposal of hazardous waste. L. LaCourse, S. Miller, and P. Larochelle agreed.

P. Monziona stated that the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. He stated the applicant described how this would affect properties would be that the Master Plan addresses this. L. LaCourse, S. Miller, P. Larochelle, and T. Morgan agreed.

S. Miller motioned to grant the special exception for case Z15-30; second by P. Larochelle. Motion passed unanimously. (5-0-0)

V. PREVIOUS BUSINESS

J. Dever reported that they have spent three days in court with the case on Church Street, but have not heard back from the judge yet with a ruling.

VI. NEW BUSINESS

P. Monziona discussed the comments made by the public at the end of the case Z15-24. He stated he appreciated that the audience members came to be heard and that the board had the authority to make the decisions. There was discussion about the concerns that were expressed. P. Larochelle felt that the people did not understand what had happened, and that they felt the board had acted rashly in the situation. S. Miller suggested sending the abutters a letter explaining the decision. P. Monziona stated that the board is only permitted to communicate about this or to abutters should be restricted to the meeting room and to public session. S. Miller suggested sending out the meeting minutes to explain the situation; P. Monziona felt that the board should communicate within the meeting.

VII. MINUTES - OCTOBER 1, 2015

Motion by T. Morgan to table the approval of the meeting minutes from October 1, 2015 until the next meeting; second by S. Miller. The motioned passed unanimously. (5-0-0.)

VIII. CORRESPONDENCE

There was no correspondence.

IX. ADJOURNMENT

**Motion by P. Monzione to adjourn; second by P. Larochelle, which passed unanimously.
(5-0-0.)**

The meeting adjourned at 9:02 p.m.

Respectfully Submitted,

Krista Argiropolis
Recorder