

TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
November 5, 2020, at 6:00 P.M.
Alton Town Hall

UNTIL FURTHER NOTICE: To keep our members and staff safe, and to comply with RSA 91-A, the COVID-19 State of Emergency, and the Governor's Orders on restrictions at public gatherings, the Town of Alton is moving from "in-person" meetings to "remote audio participation meetings". To remotely attend the meeting (audio only) visit our website: www.alton.nh.gov for telephone access and remote access instructions listed under News and Announcements on the home page (you can access an audio/video livestream there as well), or telephone the Planning Department's Office at (603) 875-2162 between 8:00 AM to 4:30 PM for more information, and for the Dial-in Code and Meeting ID for each Zoning Board meeting.

Members Present

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

Others Present

John Dever, III, Code Enforcement Officer
Tom Varney, Varney Engineering, LLC – via Zoom
Andrew Carter, applicant – via Zoom
Michelle Carter, applicant – via Zoom
Stephen Holmes, agent for Timothy and Carol Slighter – via Zoom
J. Chris Nadeau, P.E., of Nobis Engineering, Inc. – via Zoom
Allen Funk, Blue Planet Funding – via Zoom

CALL TO ORDER

Chair Rich called the meeting to order at 6:00pm. (See *Attachment 1*)

INTRODUCTION OF BOARD MEMBERS

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

APPOINTMENT OF ALTERNATES

Mr. Monzione made a motion to appoint Mike Hepworth to serve as a member in this meeting in place of Mr. Morgan. Mr. Lee seconded the motion. Roll Call: Roll Call: Mr. Monzione – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. 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.

Mr. Dever noted Case #Z20-22 is on the Agenda to be both a request for a Special Exception and a Variance, however the application has been separated for the Variance request to be Case #Z20-24.

Mr. Monzione made a motion to approve the Agenda as amended. Mr. Lee seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

NEW APPLICATIONS

Case #Z20-22 Andrew & Michelle Carter Carter Family Trust 2020, Owners/ Trustees	15 Cathy Lane Map 40 Lot 30	Variance & Special Exception Lakeshore Residential (LR) Zone
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Special Exception is requested from **Article 300, Section 320 A, C, D, G & H** of the Zoning Ordinance to permit the removal of non-existing, non-conforming, seasonal dwelling and replace with a less non-conforming year round dwelling.

Chair Rich read the case into the record. The Board reviewed the application for completeness. It was noted the supporting documents are the same for this case and Case #Z20-24.

Mr. Monzione made a motion to accept the application for Case #Z20-22 and Case #Z20-24 as complete. Mr. LaRochelle seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth -aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Andrew Carter, applicant, stated this is the last seasonal camp remaining in the development of 11 lots; they want to make it their year-round home. He stated there are many single family, year-round homes in the area. They plan to install a new 2-bedroom septic system; a Shoreline Permit application has been submitted to NH DES.

Tom Varney, Varney Engineering, LLC, stated the old cottage would be torn down, storm water measures installed, and a new septic installed; the building conforms within the building setback.

Mr. Monziona asked how many bedrooms are in the current structure. Mr. Carter stated it is currently a one bedroom cottage. Mr. Varney noted the State approved septic design is for two-bedrooms and all assignments are a minimum of two-bedroom designs. Mr. Monziona noted the ordinance prohibits increase of bedrooms. It was noted the cottage contains 6 rooms. Chair Rich stated its possible one of those rooms could have been a bedroom.

Mr. Monziona noted there are concerns from the Conservation Commission that the proposed structure will be more nonconforming as well as runoff.

Mr. Varney stated “nonconforming” applies to a building within 50’ of the shoreline; he stated he prepared a storm water management report as the lot size coverage is over 30%. There will be a drywell catch basin, dripedges and gutters installed so runoff will be reduced by infiltration into the ground. Mr. Varney stated the runoff will be less than there is currently. Mr. Varney stated the building will be less nonconforming by being relocated; the existing structure is 260’ from the lake.

Chair Rich asked what the highest point of the home will be and whether any views will be obstructed. Mr. Carter confirmed no views would be obstructed but is not sure the exact height. There is no home on the lot directly adjacent.

Mr. Monziona stated the ordinance states a building must be 25’ from the right-of-way but the current structure is only 17’ so there is a current encroachment of 8’; the proposed structure would be encroaching about 2’5”.

Chair Rich opened the hearing to input from the public. None was indicated. Chair Rich opened the hearing to input from anyone in opposition to the special exception being granted. None was indicated. Chair Rich closed the hearing to public input.

Discussion – Case #Z20-22

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

Mr. 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.

Chair Rich stated the specific site **is** an appropriate location for the use. He stated the use is not changing. The Board agreed.

Mr. LaRoche stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. The Board agreed.

Mr. Monziona 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. Hepworth 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. The Board agreed.

Mr. 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.

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

Mr. LaRochelle stated the proposed use or structure **is** consistent with the spirit of this ordinance and the intent of the Master Plan. It was noted the structure and runoff are being improved which is consistent with the Master Plan. The Board agreed.

Mr. Monziona made a motion to grant the application for Special Exception for Case #Z20-22 with the condition that the applicant obtain appropriate approvals from the State of NH Department of Environmental Services in regards to the septic system. Mr. LaRochelle seconded the motion. Roll Call: Mr. Monziona – aye; Mr. Hepworth -aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z20-24 Andrew & Michelle Carter Carter Family Trust 2020, Owners/ Trustees	15 Cathy Lane Map 40 Lot 30	Variance & Lakeshore Residential (LR) Zone
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A **Variance** is requested from Article **300, Section 320 J**

Chair Rich read the case into the record.

Mr. Carter stated it's a tough site, as shown by photos and maps presented; he stated there is a significant change in grade from the back of the lot down to the water. He stated the lot has made the design challenging to make it work for a year-round home.

Mr. Varney explained the layout of the area, noting there is only one cottage past the house on the road. He stated it's different than a typical lot.

Chair Rich asked how much land is on this lot. Mr. Carter replied 0.25 acres; it is a long and narrow piece.

Chair Rich opened the hearing to input from the public. None was indicated. Chair Rich opened the hearing to input from anyone in opposition to the variance being granted. None was indicated. Chair Rich closed the hearing to public input.

Discussion Case #Z20-24

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

Mr. LaRochelle stated granting the variance **would not** be contrary to the public interest. The Board agreed.

Mr. Monziona 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 the setback to keep things back from the right-of-way is for a number of reasons including safety and keeping things spaced but the parts which will encroach are not contrary to the ordinance. The Board agreed.

Mr. Hepworth stated that by granting the variance, substantial justice will be done. The Board agreed.

Mr. Lee stated the values of surrounding properties will not be diminished. The Board agreed.

Chair Rich 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.

Chair Rich stated to deny this variance would impose a hardship as the lot is very irregular; the encroachments and the variance being utilized is within the spirit of the Master Plan to accommodate these types of lots; the proposed use is reasonable. The Board agreed.

Mr. Monzione made a motion to grant the request for a Variance for Case #Z20-24. Mr. Lee seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth – aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Case #Z20-23 Stephen Holmes, Agent for Timothy & Carol Slighter, Owners	225 Mitchell Ave Alton Bay Campmeeting Assoc. Map 34 Lot 33-46	Special Exception Residential (R) Zone
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A **Special Exception** is requested from **Article 300, Section 320 D.** of the Zoning Ordinance to permit the expansion of a nonconforming existing bathroom.

Chair Rich read the case into the record. The Board reviewed the application for completeness

Mr. LaRochelle made a motion to accept the application for Case #Z20-23 as complete. Mr. Hepworth seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth -aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Stephen Holmes, agent for Timothy and Carol Slighter, stated the plans are for a cottage which has a shed addition that measures about 4’ by 10’ with a low ceiling. He stated the request is to remove the shed and replace it with a larger addition in which will be a storage closet and washer and dryer. Mr. Holmes stated the concern by the Water Department has already been addressed as the floor will be higher than it is currently so the water line will still be below the bathroom.

It was confirmed there is no heat in this room and the structure will remain seasonal; the proposed structure will be in the same place as the existing and will extend 4’ wider. The roof

will remain the same style and pitch but a little higher so the space inside will be 7' instead of 6'. It was confirmed there is not a washer and dryer currently in the house. Mr. Holmes noted approval from the Conference Center will be need to have those in the house.

Mr. Monziona noted the reason a Special Exception is because it's a nonconforming structure within the Alton Bay Christian Conference Center.

Chair Rich opened the hearing to input from the public. None was indicated. Chair Rich opened the hearing to input from anyone in opposition to the variance being granted. None was indicated. Chair Rich closed the hearing to public input.

Discussion – Case #Z20-23

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

Mr. Monziona 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. Hepworth Chair Rich stated the specific site **is** an appropriate location for the use. The Board agreed.

Mr. Lee stated that actual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated it is an upgrade to the property. The Board agreed.

Chair 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. LaRochelle 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. The Board agreed.

Mr. 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. LaRochelle made a motion to grant the application for Special Exception for Case #Z20-23. Mr. Lee seconded the motion. Roll Call: Mr. Monziona – aye; Mr. Hepworth - aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

EXTENSION REQUEST

Case #Z18-22 J. Chris Nadeau, P.E., of Nobis Engineering, Inc., Agent for Blue Planet Funding/William Heck, Applicant, David R. Hussey 2007 Rev. Trust/David R. Hussey, Trustee, Owner	356 Suncook Valley Road Map 5 Lot 72-7	Special Exception Rural (RU) Zone
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An extension is being requested for the Special Exception, **Article 400 Section 401F. 8.**, of the Zoning Ordinance to permit the construction of a utility scale solar energy system/solar farm within a Rural zone granted on August 2, 2018.

Chair Rich read the case into the record. The Board reviewed the application.

Mr. Monzione stated the authority granted in the ZBA decision is effective for two years and it was noted the two-year window expired August 3, 2020. He stated it is within the Board's discretion to grant an extension.

Mr. Monzione made a motion to accept the application for Case #Z18-22 as complete. Mr. LaRochelle seconded the motion. Roll Call: Mr. Monzione – aye; Mr. Hepworth -aye; Mr. LaRochelle – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

J. Chris Nadeau, P.E., of Nobis Engineering, Inc., agent for Blue Planet Funding

Allen Funk, of Blue Planet Funding, stated they had financing in place to begin construction in Spring 2020 however due to COVID-19, their Canadian partner put all U.S. projects on hold. They expected to eventually move forward but did not so they began seeking new funding with different partners and hope to have that complete shortly. The project takes a few months to complete and they would now be looking at doing this project in Spring 2021.

Mr. Lee summarized the time line of this case: the Special Exception was approved on August 3, 2018; Planning Board gave official approval on November 8, 2019. Mr. Monzione noted the clock on the ZBA decision begins on August 3, 2018 so would expire August 3, 2020.

Mr. Monzione stated there seems to be sufficient grounds and good cause for granting the extension; the statute is intended for cases where no work is started but efforts have been made to move forward with this. It was clarified the approval for Special Exception was granted to the property owner and a letter of agency was received from Mr. Hussey today, providing authority to both Nobis Engineering, Inc. and Blue Planet Funding. Mr. Monzione stated he wants to be sure they can statutorily grant an extension and suggested the request for extension should have come before the two-year mark. The Board reviewed and discussed the state statute. The Board agreed it doesn't benefit anyone to grant an extension if it won't be supported by the statute. Chair Rich asked the applicant why they didn't come before the ZBA before the Special Exception expired. Mr. Funk replied he was aware of the start of construction and Planning Board meeting next week but they have made their best efforts to meet other conditions from the Planning Board. Mr. Monzione noted the Planning Board approvals gave specific dates and

requirements and thinks they need to go before the Planning Board for further extensions; in regards to the ZBA, they need to decide if the Special Exception has been exercised and therefore there is no need to grant the request for extension as they can make the determination that the Special Exception has not expired and they have continued to work. It was confirmed land clearing and test pits have been done on the property. The Special Exception has been exercised, although there are deadlines with the Planning Board.

Mr. Monzione made a motion that the Zoning Board of Adjustment finds no extension is required for Case #Z18-22, on the grounds that the applicant has exercised the Special Exception within the two-year requirement by virtue of the work and activities engaged in during that time period. Mr. LaRochelle seconded the motion. Roll Call: Mr. Monzione – aye; Mr. LaRochelle – aye; Mr. Hepworth – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

OTHER BUSINESS

1. **Previous Business:** None.
2. **New Business:**

Mr. Dever presented draft Zoning amendments for review by the Board. He explained the changes are mainly for cleaning up language; they have also added explanations for amendments which previously failed. There are some additions to definitions for further clarification.

APPROVAL OF MINUTES

Meeting of October 1, 2020- No edits were made.

Mr. Monzione made a motion to approve the minutes as presented. Mr. Lee seconded the motion. Roll Call: Mr. Monzione – aye; Mr. LaRochelle – aye; Mr. Hepworth – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

Correspondence: None.

ADJOURN

Mr. LaRochelle made a motion to adjourn. Mr. Lee seconded the motion. Roll Call: Mr. Monzione – aye; Mr. LaRochelle – aye; Mr. Hepworth – aye; Mr. Lee – aye, Chair Rich – aye. Motion passed, 5-0-0.

The meeting was adjourned at 8:30pm.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary

ATTACHMENT 1

CHECKLIST TO ENSURE ZONING BOARD MEETINGS ARE COMPLIANT WITH THE RIGHT-TO-KNOW LAW DURING THE STATE OF EMERGENCY

As Chair of the Alton Zoning Board of Adjustment, due to the COVID-19/Coronavirus crisis, and in accordance with Governor Sununu's Emergency Order #12, pursuant to Executive Order 2020-04, this Board is authorized to meet electronically, and these reasons shall be reflected in the minutes.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone:

Members of the public wishing to attend this meeting electronically may call the conference call number from home. Follow the instructions listed under "News and Announcements" on the town's website: www.alton.nh.gov.

b) Providing additional public access by video or other electronic means:

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through the link that is listed under "News and Announcements" on the town's website: www.alton.nh.gov.

c) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to abutters and the public of how to access the meeting via telephone conference and by using Zoom.

d) Providing a mechanism for the public to alert the public body during the meeting that a member of the public wishes to speak or be recognized during public input at a public hearing:

If you are calling in by conference call, press the "star" sign and then "9" to "raise your hand" to request to speak to the Board. If you are using a laptop computer, use the "raise hand button" to request to speak to the Board. Several members of the public may be conferenced in, and requests to speak will be handled sequentially, one at a time. The Zoom Moderator will allow you to speak when the Board opens public input.

e) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem accessing the meeting, please call (603) 507-1002.

f) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting via conference call, or there are difficulties with the Town's equipment, the meeting will be adjourned and rescheduled to Thursday, October 1, 2020, at 6:00 pm at the Town Hall.

UNTIL FURTHER NOTICE: To keep our members and staff safe, and to comply with RSA 91-A, the COVID-19 State of Emergency, and the Governor's Orders on restrictions at public gatherings, the Town of Alton has moved from "in-person" meetings to "remote audio participation meetings" until further notice. You may call the Planning Department at (603) 875-2162 between 8:00 AM to 4:30 PM for more information, and for the Dial-in Code and Meeting ID for each Zoning Board meeting.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their presence, also please state whether there is anyone in the room with you during this meeting, which is also required under the Right-to-Know law.