

**TOWN OF ALTON
ALTON ZONING BOARD OF ADJUSTMENT
JANUARY 8, 2009**

Approved as amended March 5, 2009

Members Present: Timothy Morgan, Chairman
Timothy Kinnon
Marcella Perry
Paul Monziona
Steve Hurst

Others Present: Sharon Penney, Town Planner
Randy Sanborn, Assistant Planner
Members of the Public

I. CALL TO ORDER

T. Morgan called the meeting to order at 7:05 PM.

II. APPOINTMENT OF ALTERNATES

No alternates were appointed.

III. STATEMENT OF THE APPEAL PROCESS

T. Morgan reviewed the appeal process.

IV. APPROVAL OF AGENDA

S. Penney announced that the two continuances that were on the agenda, Z #08-19 and Z #08-20, had both submitted a verbal withdrawal of their applications. She noted that only the two new applications would be on the agenda for the meeting.

MOTION:

M. Perry motioned to accept the agenda as amended and T. Kinnon seconded the motion. The motion passed by unanimous vote.

V. NEW APPLICATIONS

**Case #Z09-01
Map 36 Lot 28 & 29**

Special Exception

**Henry & Jacqueline Brandt
175 Mt. Major Highway**

S. Penney read the case into the record: Application submitted by Henry & Jacqueline Brandt to request a Special Exception to construct a new DES approved septic system requiring a lot line adjustment which creates a setback violation. This parcel is located in the Residential Commercial zone.

Attorney Bill Tanguay presented the application. He stated they are seeking to have a septic system approved and that there would be renovations to the house. He showed where there was a stream and culvert on the property. He stated that with the DES regulations and other regulations that there was just a certain area that they could place the septic board. He noted that a lot line needed to be moved to make this possible. The plan will be submitted to DES for approval and to the Alton Planning Board. He noted where special exceptions would be allowed. The client is working with Tom Varney, engineer, on the project.

The house is being used as a single-family, two bedroom home and after the renovations it will still be used as a single-family, two-bedroom home. B. Tanguay stated that he felt the placement that the applicant was proposing would cause a set-back violation but that it would preserve the distance between the structures. He felt that the placement of the septic system would provide the least disruption to the lots.

There was review and discussion of the plans and maps that were included with the application. B. Tanguay did not know if the renovations would change the footprint of the house. The application stated that the front porch violated the front setback and they might consider removing the setback or changing other things. The adjustment would cause the structure to be 1.4 ft from the abutters property line.

The applicant explained the reason for the new septic system was that the old system drained into a dry well near the lake and felt the design was not best. The old system did not fail. S. Penney spoke about her concerns for this to be reviewed by the Health Officer.

There was discussion about unit 4 on the abutting lot and a question about maintenance was raised. The applicant stated that an easement would be allowed to allow for maintenance.

B. Tanguay reviewed the application and the eight criteria of the special exception worksheet. He spoke in favor of the project and how it would meet and/or exceed the criteria. He stated that if it was not for the Shore Line Protection Act enacted in July, 2008, that he would not have needed to bring this application for a Special Exception before the ZBA.

T. Morgan opened the floor for public discussion. There was no public input.

The board reviewed the case to determine the following:

- 1. A plat has/has not been accepted by the Planner in accordance with Alton Zoning Ordinance Section 420 b. and a recommendation has been made.**

P. Monziona stated that the plan that they have fulfills that requirement. All members of the Board agreed with his statement.

- 2. The specific site is / is not an appropriate location for the use.**

T. Kinnon stated that the use was residential and was not changing, and therefore was appropriate. M. Perry stated that the use was an improvement and agreed with T. Kinnon's statement. All other members agreed with the two statements.

- 3. Factual evidence is / is not found that the property values in the district will be reduced due to incompatible uses.**

M. Perry stated that based on what the applicant is proposing will not decrease property values. All members of the Board agreed with his statement.

- 4. There is / is no valid objection from abutters based on demonstrable fact.**

T. Morgan noted that there was no input from the abutters at all. P. Monziona stated his concern that the owners of the two parcels seemed to be represented by the individual owner and his concern would be in the future is the distance that this structure has from the property line and agreed that there was no objection. All other board members agreed that there was no objection from abutters.

- 5. There is / is no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.**

S. Hurst stated that he agreed. All members of the Board agreed with his statement.

- 6. Adequate and appropriate facilities and utilities will / will not be provided to insure proper operation of the proposed use or structure.**

P. Monziona spoke about the issue of easement and the approval of the septic design. All members of the Board agreed with his statement.

- 7. There is / is not adequate area for safe and sanitary sewage disposal and water supply.**

T. Kinnon noted that this plan was "exactly that". All members of the Board agreed with his statement. P. Monziona spoke about the concerns expressed by the Planner and whether the current design proposed some concerns by the Health Officer. He stated that his approval was contingent on whether the applicant could obtain those approvals. M. Perry stated that this was necessary for the upgrade. All members of the Board agreed with his statement.

- 8. The proposed use or structure is / is not consistent with the spirit of this ordinance and the intent of the Master Plan.**

T. Morgan felt that this was in the spirit of the ordinance. P. Monziona stated that he agreed and felt the plan had a valid purpose. He spoke about the concept of the easement that would be needed with the proposed change. S. Hurst stated that the board should be careful that all of the things that P. Monziona had mentioned. M. Perry felt it was not in the spirit of the Master Plan because of the overcrowding of the area but that in this particular situation this was necessary to make a special exception. T. Kinnon agreed.

There was discussion about some of the conditions that should be included in the motion to approve this special exception.

MOTION:

S. Hurst motioned to approve Case #Z09-01 on the following conditions:

State and local permits are approved

- 1. The requirements of the Town of Alton health ordinance are met**
- 2. An easement is enacted for the benefit of Unit #4 to allow maintenance of Unit #4. Such easement shall be 10 feet from the property line north, running co-current with 51.73ft from the east-end boundary, to the west-end portion, also known as Area A**
- 3. The stipulation that the existing structure on lot 29 is not constructed any further south on property than what the existing setback would allow.**

P. Monziona seconded the motion. The motion passed by unanimous vote.

NOTE: T. Morgan recused himself from the following case and P. Monziona acted as Chair.

**Case #Z09-02
Map 21 Lot 57-1**

Special Exception

**Deanna O'Shaughnessy &
Fae Kontje-Gibbs
118 Old Wolfeboro Rd.**

S. Penney read the case into the minutes: Application submitted by Deanna O'Shaughnessy & Fae Kontje-Gibbs to request a Special Exception to propose to operate a water bottling facility. Reference previous Notice of Decision approval October 7, 2004, Map 12 Lot 57. This parcel is located in the Rural Residential zone.

MOTION:

M. Perry motioned to accept Case #Z09-02 as complete and **P. Monziona** seconded the motion. The motion passed by unanimous vote.

T. Morgan represented the applicant. He reported that the board had granted a special exception to his client and they had gone to the Planning Board to request a subdivision because a portion of the property is rented to Chamberlain Springs LLC and a long-term lease constitutes a subdivision and because part of the property would be put into a special conservation. He reported that the special exception was not granted for the smaller piece of property, as well as the one that currently exists. The property was subdivided after the special exception was granted. T. Morgan reported that there are two pieces of property and noted where they are located on a map presented to the board. There are two houses on one of the pieces of property.

T. Morgan reported that water will be sold in bulk and they have the DES permit, which is for ten years. They have approval from the Planning Board for the water bottling facility but no contract with a bottling company that was satisfactory to them. He reported they have the permit for 30

trucks per day from DOT and that Old Wolfboro Road had been reinforced. There was discussion about what was done to reinforce the road.

T. Morgan stated that there would be a spring water bottling business. He spoke where on the property the business would be located. He reported that Health and Human Services came out to look at the buildings and felt that the barn had the best drainage, so it would be more appropriate for the facility they are trying to build. He reported on the design of the facility that had been presented by the engineers. D. O'Shaughnessy spoke about the history of the buildings and the farm.

There was discussion about the shipping of the water and where/how the trucks would be loaded. D. O'Shaughnessy spoke about the results of the water testing that they have done. She discussed how the business will be operated and work that she and T. Morgan will do for this business.

P. Monziona opened the floor for public input.

One abutter [this recorder cannot hear the name on the recording] spoke for the plan and stated he liked the nature of the business plan and felt it was appropriate.

Mark Ford stated he is for the plan but that he was concerned about the business possibly growing. He spoke about his concerns about the impact this business could have on the aquifer and the shipping traffic. He asked when the wells were drilled.

D. O'Shaughnessy responded that the wells were drilled at various times and the first one was in July, 2003. She stated that the second one was in July, 2004 and then over the course of several weeks the other wells were drilled. T. Morgan reported that there are five wells and three are production wells, two are monitoring wells. The DES permit was granted in 2006 for 223,200 gallons per day. He reported that there are 53 monitoring sites that are computer monitored. He reported that a wet lands scientist has to monitor/inspect the monitoring of the wetlands. D. O'Shaughnessy spoke about some of the criteria that they have to meet to get the permit from DES and stated that they did more than what was required for monitoring per the DES requirements. There was discussion about shipping of product and travel routes of trucks.

M. Ford stated that his well was drilled in August, 2005 but that they developed a problem with iron bacteria in their water. He stated he had no specific dates for when the problem developed and spoke about the issues they have had with it. D. O'Shaughnessy offered to give M. Ford the number of their engineer and felt he could help M. Ford with his water problem. M. Ford stated that his well ran perfectly fine for six to twelve months and that he now has to change filters each week. D. O'Shaughnessy stated that they have not done any pumping for their well. There was discussion about the issue of iron bacteria.

M. Perry asked M. Ford if he was speaking against the application. M. Ford responded that this was the first time he had sat down to discuss the plan but that he wished them the best in their water bottling business.

There was no negative public input.

The board (4 members, as T. Morgan) reviewed the case to determine the following:

- 1. A plat has/has not been accepted by the Planner in accordance with Alton Zoning Ordinance Section 420 b. and a recommendation has been made.**

S. Hurst stated that he agreed with this. All board members agreed.

- 2. The specific site is / is not an appropriate location for the use.**

M. Perry stated that this was true because it had already been approved but because of the revision, including the subdivision, this was still true. P. Monzione spoke of the subdivision and felt that this was still true. All board members agreed.

- 3. Factual evidence is / is not found that the property values in the district will be reduced due to incompatible uses.**

T. Kinney stated that the applicant has gone through great trouble to make sure that the value of property will be retained. P. Monzione stated that he had no doubt about that. All board members agreed.

- 4. There is / is no valid objection from abutters based on demonstrable fact.**

P. Monzione stated that two abutters spoke and there was one concern about water but that appropriate concern has been shown by the applicant. M. Perry stated that the concerns were address appropriately. S. Hurst stated the concern was valid but it was addressed. All board members agreed.

- 5. There is / is no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.**

S. Hurst stated that the applicant has put in good efforts of improving the road and address issues with traffic and noise. M. Perry state that what is being proposed now has less of an impact. All board members agreed.

- 6. Adequate and appropriate facilities and utilities will / will not be provided to insure proper operation of the proposed use or structure.**

M. Perry spoke about the permits and consultations that the applicant has obtained. All board members agreed.

- 7. There is / is not adequate area for safe and sanitary sewage disposal and water supply.**

T. Kinney felt that proper measures had been taken and that there was adequate water supply. All board members agreed.

8. The proposed use or structure is / is not consistent with the spirit of this ordinance and the intent of the Master Plan.

P. Monziona stated the plan did keep in the intent of master plan. M. Perry stated that their monitoring of the water on the neighboring properties and having a small business was in the best interest of the town.

MOTION:

M. Perry motioned to accept Z09-02 for a special exception with the concern of the abutter being address by the abutter. P. Monziona seconded the motion. The motion passed by unanimous vote.

VI. APPROVAL OF MINUTES

MOTION:

P. Monziona motioned to table the meeting minutes for the next meeting and T. Kinnon seconded the motion. The motion passed by unanimous vote.

VII. ADJOURNMENT

MOTION:

P. Monziona motioned to adjourn the meeting and T. Kinnon seconded the motion. The motion passed by unanimous vote.

The meeting adjourned at approximately 8:45 PM.

Respectfully Submitted,

Krista Argiropolis, Recorder