

**TOWN OF ALTON PLANNING BOARD
MINUTES OF 2017
JANUARY 17, 2017**

APPROVED

Members Present:

Roger Sample, Vice Chairman
Peter Bolster, Clerk
Bill Curtin, Member
Russell Wilder, Member

Others Present:

Nic Strong, Town Planner
Jessica A. Call, Planning Secretary

CALL TO ORDER

Roger Sample called the meeting to order at 6:00 p.m.

APPROVAL OF AGENDA

Roger Sample asked if there had been any changes in the agenda. Nic Strong stated there had not.

**Bill Curtin moved to accept the Agenda as presented.
Russ Wilder seconded the motion and it PASSED unanimously.**

Public Hearing on Petition to Amend the Zoning Ordinance

Roger Sample asked Nic Strong to explain the petition process. Nic Strong stated that the notices were available on the table and were posted in the newspaper, the post office, on the bulletin boards in Town Hall, and on the website. Peter Bolster inquired about the petition. Nic Strong stated that the petition will go on the ballot, and that the document Peter Bolster was referring to was a notice to be presented at tonight's meeting. Nic Strong further stated that the Board was to read the notice, talk about the petition, and decide whether to recommend or not recommend, but it does go on the ballot one way or another. Roger Sample then proceeded to read the notice for the record.

The proponent of the petition, Cindy Calligandes, came to the table. Peter Bolster asked Cindy Calligandes to explain what the purpose of the petition was and why it was needed. Cindy Calligandes stated that her son had been away for 16 years and just came back to the state to help her husband with his construction business. She stated that she and her husband were building a house down on the end of Dudley Road, which has 61 acres, and her son would like to build a house on the same lot also. Peter Bolster asked what the current rule was on such an issue. Cindy Calligandes stated that she got 48 registered voters' signatures and that many people thought that two structures could be built on one lot. Roger Sample asked if that was a particular zone issue, because in the past you could have two structures on one lot. Roger Sample asked Cindy Calligandes if she wanted to change it back. She stated, yes. Roger Sample asked if the ordinance had been amended so there could not be two structures on one lot. Nic Strong stated that she believed back in 2002 the Zoning Ordinance was amended to prohibit more than one dwelling on one lot. Roger Sample inquired if the Zoning Amendment Committee had a rationale for amending the ordinance. Peter Bolster stated to Cindy Calligandes that with her type of situation, she would have to show where the house is located now, and that it could be subdivided if need be. Cindy Calligandes stated that she wanted to make it a family compound, because her son could not afford to buy land and then put up a house on his own, and when she and her husband

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get old, he would be right next door in order to help them out. Roger Sample stated that with 61 acres, he thought that she should be able to do something like that.

Peter Bolster asked how many feet of road frontage she had on the property. Cindy Calligandes believed it was about 150 feet, but was not exactly sure. Cindy Calligandes stated that she had a long driveway and then the property opens up. Peter Bolster stated that in that particular situation, if it was to be subdivided, the driveway would have to be converted into a Class V road. Peter Bolster stated that because of the way the petition was worded, in her particular situation, the lot where the second house would be located, would have to demonstrate that it was in a place where it could be subdivided at a later point in time, but if there was only 150 feet of frontage and a private drive, then at the present time it could not be subdivided. Cindy Calligandes stated that she would convert her driveway to meet the specs of a road for the town. Peter Bolster stated that if she brought the driveway up to road specs, then it could be subdivided. Cindy Calligandes stated that she could do that, but was not interested in subdividing and would like it to be a family compound. Roger Sample questioned if the road went up the middle, could you have two lots? Bill Curtin stated no, that you would have to have 200 feet of frontage.

Peter Bolster started to state again that because of the way the petition was worded, and was interrupted by Bill Curtin, who stated that maybe it was not the fact of how the petition was worded and maybe it had to do with how the ordinance was worded before it was amended back in 2002. Bill Curtin stated that he did not have a problem with recommending the petition. Peter Bolster stated that the other thing that was being presented was the amendment for Accessory Dwelling Units and in the non-lakeshore zone, you could have an apartment over a detached building. Russ Wilder stated that you could have a separate structure. Peter Bolster further stated that the Accessory Dwelling Unit amendment covered what Cindy Calligandes was looking for. Roger Sample asked if there was a size limitation. Bill Curtin stated that there was a size limitation on the Accessory Dwelling Unit. Russ Wilder shared that the Accessory Dwelling Unit was mainly for elderly people to live in so they could be next to someone that could care for them. Russ Wilder further went on to explain that in the Rural zone you don't have to have it over a garage and that it could be a separate building, for example, a ranch style home. Russ Wilder believed that the Accessory Dwelling Unit ordinance would provide what Cindy Calligandes was looking to achieve. Peter Bolster stated that the drawback with the Accessory Dwelling Unit applying to the petition is that the Accessory Dwelling Unit could not be any more than 50% of the original structure. Russ Wilder stated that the Board would have to vote whether they were in favor or not, and it appeared to him that the petition was tailored for one specific lot of property. He thought that when a proposal was made to amend zoning ordinances, the Board needed to think town wide and not just about specific properties.

Russ Wilder talked about how the Subdivision Regulations were put in place to prevent "scattered and premature development." He believed that the Accessory Dwelling Unit ordinance would possibly provide what Cindy Calligandes was looking to achieve. Russ Wilder went on further to state that he believed the Board should follow the Subdivision Regulations if someone wanted to build a structure that was bigger than the Accessory Dwelling Unit ordinance allowed. Russ Wilder wondered if Cindy Calligandes' petition was allowed, who would the tax bill go to if you had two owners? Roger Sample wondered about the mortgages and that the bank would not want to finance something if they did not own the land. Russ Wilder stated that if they did approve the petition, the Table of Uses needed to be changed and maybe an asterisk added to state that 45 acres or more was required, and thought that even

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10 acres would be adequate. Peter Bolster began to state that if the Board approved the petition, and the petitioner wanted to go to the deliberative session and ask to amend the acreage they could, but was interrupted by Nic Strong, who stated that after tonight's meeting, no one could discuss zoning at the deliberative session and that no one could amend the petition from 45 to 10 acres. Russ Wilder thought they should not do this because it could appear to be "spot zoning." Russ Wilder then stated that if the Board did recommend the petition, then everyone with 45 or more acres that wanted a second dwelling on their property would have to prove that it could be sub-dividable.

Peter Bolster then asked what a person would have to do in order to prove that where the second dwelling was located, that it could be subdivided at a later time. Russ Wilder stated that they would have to show they had 150 feet of road frontage and the commitment to build a road. Roger Sample asked if they would have to show any engineering that it could be subdivided. Russ Wilder agreed and mentioned that the applicant would have to get a survey. Roger Sample further explained that if the applicant did get a survey, that it would not necessarily be accurate if the regulations changed before the land was subdivided. Peter Bolster mentioned that if the petition passed, the property value for residents with 45 acres or more in the Rural zone would go up because more could be done with their property than could be done now. Cindy Calligandes stated that she was going to go before the Zoning Board of Adjustment for a Variance, but after speaking to John Dever, III, Code Official, he suggested not to because he did not think the Board would approve it. Peter Bolster explained to Cindy Calligandes that before the Accessory Dwelling Unit amendment came about, that that was the opinion of the ZBA, but now that there is an amendment to the Accessory Dwelling Unit ordinance, she would probably have a better chance with getting an approval for a Variance. Russ Wilder went on to read the Accessory Dwelling Unit ordinance that stated, "shall have no more than 1,500 square feet of gross total floor area", and believed that that is a decent size home. Peter Bolster suggested that the Planning Board give their approval, but wondered how the applicant would prove that the new house could be subdivided. Roger Sample stated that applicants would go straight to the Building Department and apply for a building permit and would work with John Dever, III, Code Official. Russ Wilder made a point that the applicant would still have to prove to John Dever, III, that the property was subdividable. Bill Curtin suggested that the applicants get the property surveyed and then record the plan. Peter Bolster stated that the applicant would then have to go through the Planning Board in order for the plan to be signed. Russ Wilder was uneasy about approving something that could be considered "spot zoning" when there was a reasonable alternative such as the Accessory Dwelling unit amendment. Peter Bolster stated that if that was the case, then both houses could share a septic system and water supply.

Russ Wilder believed that the proposed petition raised a lot of questions, like how would it be administered, was it considered "spot zoning", and why did it have to be 45 acres and not 10 acres. Russ Wilder read more from the Accessory Dwelling Unit ordinance and it stated, "shall not exceed 50% of the total floor space of an accessory structure....", and then determined that was probably why Cindy Calligandes petitioned the amendment in the first place. Peter Bolster still questioned the process of whether the applicant would have to appear before the Planning Board to prove that their lot was a potentially subdividable lot, which the Board does not usually do.

Bill Curtin had an issue with the last sentence of the petition, "constructed as long as the second home is situated on the lot so in the future, it can be subdivided if need be", because you never know what the future will bring. Roger Sample mentioned that it should be up to an Engineer to decide whether the lot could be subdivided. Peter Bolster brought up the issue regarding taxation, for example, if you had a

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piece of land that could be subdivided into 20 lots, it was not taxed on 20 lots because it had not been subdivided, and in fact, it was taxed as one lot; therefore, the land owner was not taxed on the potential use of the lot, but taxed on the actual use of the property.

Tom Varney came to the table to speak in favor of the petition and believed that the town could benefit from the petition. Tom Varney went on to share that back in the 1980's there was a resident that built a second home on a one acre lot, and when they went to the Planning Board to subdivide, the Board said they could not because they did not have enough acreage and would therefore need to appear before the Zoning Board of Adjustment for a Variance. Tom Varney thought that the ordinance was amended to prohibit two dwellings on one lot. Tom Varney was in the same situation as Cindy Calligandes, because he too does not want to subdivide his land in order for one of his children to build on his 150 acres. Bill Curtin spoke up and stated that it was not that the Board was having a difficult time deciding on whether to approve the petition or not, it was because of the wording in the petition that stated that in the future the houses could be subdivided if need be. Tom Varney stated that if someone had 50 acres they would most likely be able to subdivide the land, unlike someone that only had 2 acres. Roger Sample stated that was the issue the Board was having a hard time with. Russ Wilder suggested that maybe the Accessory Dwelling Unit ordinance needed to be changed to not be so restrictive, like allowing a true "Granny Flat" and not be forced to have to build an apartment above a garage. Roger Sample asked if there were any more comments from the Board or from the public. There were none.

Bill Curtin moved that the Planning Board move the Petitioned Warrant Article to the town ballot in March of 2017.

Nic Strong interrupted the Board and stated that they needed to vote on whether they recommend or do not recommend the petition and not whether to move it to the town ballot; it is going to the ballot automatically. Roger Sample asked Bill Curtin to amend his motion.

**Bill Curtin moved that the Planning Board recommend the Petitioned Warrant Article.
Russ Wilder seconded. Roger Sample and Bill Curtin-yes, Russ Wilder and Peter Bolster-no.**

Second Public Hearing pursuant to RSA 675:3 on proposed Zoning Ordinance Amendment #1

Roger Sample read the notice into the record.

**Peter Bolster moved to propose Zoning Ordinance Amendment #1 as presented to the town ballot.
Russ Wilder seconded the motion and it PASSED unanimously.**

Other Business:

1. **Old Business:**
 - a. Discussion re: the Town of Alton Subdivision Regulations

Nic Strong stated that the draft regulations she passed out to the Board members included the proposed changes so they could see what was amended. Nic Strong further stated that she needed to send the Regulations to Jim Sessler, Esq., Town Counsel, for his review and comments before a public hearing was scheduled. Bill Curtin suggested that the Board take their drafts home to review them and then discuss them at the next meeting on February 21, 2017. Russ Wilder had some questions regarding not seeing "see Zoning Ordinance" in the definitions. Nic Strong had taken out all of the words along with

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their definitions that did not show up anywhere in the Regulations, which is why Russ Wilder could not find “see Zoning Ordinance” in the list of definitions. Russ Wilder will send his comments to Nic Strong. Nic Strong will send the Regulations to Jim Sessler, Esq., while the members look over them again.

- b. Planning Board to set the date for public hearing on the Town of Alton’s Excavation Regulations

Nic Strong stated that the draft Regulations she passed out to the Board members did not include the strike-throughs and changes because the old set of regulations were back from 1980 and there were so many changes, it was not feasible to correct them, and instead they were re-written. Nic Strong stated that Jim Sessler, Esq., Town Counsel, had already reviewed them and saw nothing illegal or against Planning Board regulations.

Nic Strong also presented to the Board a draft letter and fact sheet to send out to the gravel pit operators inviting them to a public input session for February 21, 2017, at 6:00 p.m. Nic Strong explained to the Board that after the meeting, they could incorporate any suggestions from the gravel pit operators into the regulations, next there would be a public hearing to adopt the regulations. She further stated that she had hoped everything would be finalized by the spring and everyone would be in compliance. Peter Bolster asked if the surrounding towns would be notified of this meeting. Nic Strong stated no, that the only time other towns (and the Lakes Region Planning Commission) would be notified of anything would be if a specific application was deemed to have a regional impact.

Russ Wilder pointed out that the language in the regulations that pertain to applications should include something that indicates exactly what type of digging would require an excavation permit; for instance give an example, but state there could be exceptions. Nic Strong stated that there was a problem with the statute because it listed a number of occasions that do not require a permit, which usually means that everything else does. Nic Strong further stated that if an applicant met the exemptions then they would not need a permit, but would still have to follow the State’s minimum operational and reclamation standards. Russ Wilder suggested to Nic Strong to include some verbiage about what is expected. Nic Strong stated that the problem with doing that was if you were not careful to follow RSA 155-E in what was said, there could be issues. Russ Wilder stated that he thought asking Jim Sessler, Esq., for some guidance with this would be helpful. Russ Wilder brought up the fact that he could not find anywhere in the regulations that an applicant could not leave, for example, a 40-foot drop off. Nic Strong stated that if all the applicant had to follow was State standards then the language on page 17 of the regulations would be all that they would have to follow; this is in contrast with what the town can regulate as far as what the pitch of the slopes would have to be. Nic Strong did state that if there was an abutter that disapproved of the pit, then there would be a 50 foot buffer, otherwise an applicant could go all the way to the property line. Unless the pit operator needed a permit, it could be decided by the Planning Board how far away from the property line they needed to be. The Board asked Nic Strong to work with Russ Wilder to finalize the language regarding permits in the fact sheet. It was determined that in order to give everyone time to review the information, the public input session should be in March.

Russ Wilder moved to hold the Excavation Regulations Input Session at the March 21, 2017, meeting.

Bill Curtin seconded the motion, and it PASSED unanimously.

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2. **New Business: None.**
3. **Approval of Minutes:** December 20, 2016, Planning Board Meeting
Russ Wilder pointed out some errors: on page one “dispersed” should be “dispensed” and the testimony from Carl Chamberlain stated “easement” and it should be “covenant,” but it could not be changed because that is what he said and no one corrected him at the time.

**Bill Curtin moved to approve the minutes of December 20, 2016, as amended.
Peter Bolster seconded the motion, and it PASSED unanimously.**

4. **Correspondence for the Board's action/review/discussion: None.**
5. **Correspondence for the Board's information: None.**
6. **Any Other Business that may come before the Board:**
 - a. Roger Sample and Bill Curtin are up for re-election this year.

Nic Strong stated that if they were interested in being re-elected, they would have to go sign some documents with the Town Clerk.

Public Input on Non-Case Specific Local Planning Issues

Roger Sample opened the public input session. No one from the public was present at this time. Roger Sample closed the public input session.

Peter Bolster questioned the concerns about Dunkin Donuts, and whether they had been addressed. Nic Strong stated that she had not heard back yet. Peter Bolster also questioned about the additional property at the Car Wash and whether they brought in a Site Plan. Nic Strong stated that she had met with the owner because there are two potential entities that are interested in leasing the property, and a Site Plan would be submitted soon. Peter Bolster also questioned about the woman who wanted to do an outdoor farmer’s market on Route 11, noting that he had seen the property was for sale and wondered if she had come in with an application for something else. Nic Strong stated no.

ADJOURNMENT

**At 7:45 p.m., Russ Wilder moved to adjourn.
Bill Curtin seconded the motion and it PASSED unanimously.**

The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Jessica A. Call
Planning Secretary

Minutes approved as amended: February 21, 2017