

**TOWN OF ALTON  
ZONING BOARD OF ADJUSTMENT**

**Public Meeting  
February 4, 2010  
APPROVED MARCH 4, 2010**

**I. CALL TO ORDER**

The meeting was called to order at 7:10 p.m. by Paul Monzione, Chair.

**II. INTRODUCTION OF BOARD MEMBERS**

Paul Monzione, Chair, introduced the following:

Stacey Ames, Planning Assistant  
Sharon Penney, Town Planner  
Timothy Kinnon, Member  
P. Monzione, Chair  
T. Morgan, Member  
Lou LaCourse, Member

The Representative from Board of Selectmen was not present.

**III. APPOINTMENT OF ALTERNATES**

None required

**IV. STATEMENT OF 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.

## **V. APPROVAL OF THE AGENDA**

Received a letter from Stephen and Raquel Rogers regarding Case Z09-12. They have asked for a continuance to the next meeting March 4<sup>th</sup>. They do realize that they will have to renote their abutters. They are still in the middle of settling things with NH DES.

Paul Monziona has recused himself from all matters concerning this Case so he turned the meeting over to the Clerk, Tim Kinnon, because the Vice-Chair is absent.

T. Kinnon asked for a discussion.

T. Morgan asked how many continuances there has been.

S. Ames stated that this is their fourth but one was because of no quorum, so this is their third and final continuance with abutter notification.

T. Morgan stated in that case he would not have any problem with the continuance. L. LaCourse stated he was also okay with it.

T. Morgan made a motion that they grant a continuance for Case Z09-12, Stephen and Raquel Rogers, from today's date until the March meeting of the Zoning Board of Adjustment. L. LaCourse seconded the motion, which passed unanimous vote.

Meeting was returned to P. Monziona who asked if there were any further changes to the agenda.

S. Penney stated they had the same situation with Case Z10-01, Lowell and Dorla Hall, the Agent Roger Sample submitted a letter requesting that the Case be continued until next month, March 4<sup>th</sup>. Once again this was contingent on gathering information on the septic system at the campground which has not been fulfilled.

P. Monziona asked if there were any discussion regarding this Case.

T. Kinnon made a motion that they grant the continuance of Case Z10-01, Lowell and Dorla Hall, to the regularly scheduled meeting which is March 4<sup>th</sup>. T. Morgan seconded the motion, which passed unanimous vote.

T. Kinnon made a motion to amend the agenda to bring the Laura Shea, Scott Mertins and Susan Doyle Case Z10-04 and Z10-05 to bring it up to the first item. T. Morgan seconded the motion, which passed by unanimous.

P. Monziona asked if the attendees would like to come forward and request their continuance.

Scott Mertens, one of the owners for Case Z10-04 and Z10-05. We would like to request a continuance until the March meeting 2010. Stated they got a letter from one of their abutters

with some questions that need to be answered before they move forward with their request for Variance. So need to explore that a little bit further.

L. LaCourse made a motion to accept the agenda as amended. T. Kinnon seconded the motion, which was a unanimous vote.

## VI. CONTINUANCE

<b>Case #Z10-02</b> <b>Edwin and Jennifer Rosario</b>	<b>Map 34, Lot 33-25</b>	<b>Special Exception</b> <b>45 Winni Ave</b>
--	--------------------------	---

*Application submitted by Edwin and Jennifer Rosario to request a Special Exception from Section 300 Article 320-4 to allow the expansion of a non-conforming structure to include expanding the upstairs living space, enclose existing porch to create a bathroom as well as update electrical and roof.. This parcel is located in the Alton Bay Christian Conference Center in the Residential zone.*

S. Penney read the case into the record.

P. Monziona asked if any one objects to him being on the Board because he is on the Board of Directors at the Cornerstone Christian Academy.

There were not objections so he remained on this Case.

S. Holmes, Agent, stated that in the last meeting the Memo from the Planner raised some concerns regarding the granting of this special exception. He will go over as they are listed.

P. Monziona mentioned a note from the Code Enforcement Officer to the Planner on this so they gave S. Holmes a copy for his review.

S. Holmes asked if he could confer with the Director of ABCCC. He stated he would like to proceed.

1. Memo from Planner was property in 50 foot primary setback for CSPA requiring NHDES permits, setbacks and waivers. The property is 150 to 200 feet back from the shoreline.

2. This is a summer cottage and will be continued to be used that way. The comment was any additional use of the cottage beyond seasonal summer use will impact the existing water and septic. It will not be used beyond the summer season.

3. The application asked for a special exception for a living space to accommodate six people. The question was does this request refer to the creation of bedrooms; if so there will be a marked impact on the septic system. At this juncture it cannot be determined as to location and capacity. This same family is moving from one cottage to another so they are just moving next door with the same number of people. He doesn't know if that will make an impact but the Code Officer has met with Richard Smith, the Director of ABCCC and Richard has shown him the blue print of the septic system so he is not sure why there is a question on that, because it is clear to his understanding that it has been resolved and there is a letter from Richard Smith from Alton Bay. He read from the letter.

S. Penney would like a copy of the letter.

S. Holmes stated to his understanding this is the newest part on the campground and this cottage is part of the new septic system and is adequate to take care of that usage.

4. Does the proposed expansion of the second story impinge upon the existing view of the back lot of the neighbors, which he referred them back to the letter. It states that it does not impinge upon the view of the back lot of the neighbors.

5. Three department heads have concerns. The fire department addressed close setback distances to abutting buildings and additional area created exposed to fire such as windows and it cannot be fire retardant. And again he refers to the letter from Richard Smith and he concurs that that is a compacted area. When they looked at this with the Conference Center building and grounds they agreed that it needed hardy plank or the equivalent with the closeness of the other cottages. That will make it much safer in keeping with the criteria set by the Board of Directors. The window space on the sides can be reduced or eliminated to minimize fire exposure. And one of the things the fire department had stated is that the window areas should be 25% or less of the sides next to those buildings and it will be substantially less than that. Then the building code officer had a septic system issue. Water department asked how existing foundation translates into increased living area. How would a foundation affect the infrastructure? There will not be any changes in the foundation except to make sure it is adequate. He will be working closely with the code officer in the process to make sure that he is satisfied that what is existing is adequate and if not it will be beefed up to meet the added load that would be put on this foundation. Then the Conservation Commission questioned the status of the NH DES prohibition against building at ABCCC. Again he refers to Richard Smith's letter on the front page about half way down.

S. Penney apologized for losing the letter in the paper shuffle.

S. Holmes stated there were several e-mails between NHDES and the Campground and to Richard's understanding that had been satisfied. The only thing left was they were going to come back in the spring to make sure the plantings that were put in place took.

P. Monziona asked for a minute to read the letter. He had a few questions. According to Mr. Smith's letter he describes as you have in reference to the letter what is going on with the septic here and it is a little perplexing because the code enforcement officer's most recent inquiry about that is about where the septic connects. He read the Code Enforcements concerns. Mr. Smith understands he was out with the Interim Code Enforcement Officer that the septic for this cottage goes into a tank down near Route 11 and is pumped into one of the leaching tanks and there is more than adequate capacity. That doesn't tell them location, distance, actual capacity. It would be nice to have a general statement addressing the location, distance, and actual capacity would be fine.

S. Holmes stated that the Code Enforcement Officer has a copy of that plan in this building.

P. Monziona asked if he had a septic design as part of his application that shows them where the tanks are and where they get pumped to.

S. Holmes stated he does not have that in his file. It was his understanding that this question had been satisfied as the Code Officer met with Mr. Smith.

P. Monziona asked if that was after he got the continuance then the Code Enforcement Officer went out.

S. Holmes stated yes.

P. Monziona stated that he was at the last meeting.

S. Penney says the Code Enforcement Officer will be in tomorrow. The letter was found.

P. Monziona asked if the construction that will take place on this structure will stay within the footprint.

S. Holmes stated that it was 120 square feet that is existing. Asked them to look at the photos of the building to see the addition and that is within the footprint.

P. Monziona asked if a part of it will be taken down.

S. Holmes states it will match the existing roof line. The wall will come up from the back four feet so it will match the eaves and the ridge line will come back so it will square off the cottage.

P. Monziona asked if the total square footage that would be added to this structure is 120 square feet.

S. Holmes said approximately 120 square feet.

P. Monziona asked when he talked about 25% of the windows, did he mean 25% of the entire structure or 25% of the addition.

S. Holmes said there will be no windows on the addition on the sides that would go toward the buildings. There will be windows on the back and there are no buildings toward the back that goes down to the beach.

P. Monziona asked as part of this construction the entire structure would be resided with a fire retardant siding such as hardy plank.

S. Holmes said yes. So it will be a safer building after this project.

T. Kinnon asked about the Fire Department's concern about the windows that would be on the side facing the cottage or an additional structure. Has the possibility been explored as to fire retardant or fire resistant curtains?

S. Holmes states that that has not been discussed and asked if they look at the side that has the porch on it where they want to enclose that and make that into a small bathroom. There is one

large window and a doorway there now. There will be no windows on that side. The only thing left on that side would be the window in the very back so they are reducing that kind of exposure.

T. Morgan asked if he would break down where the 120 feet would be in the back and the bathroom.

S. Holmes says 120 feet would be expansion of a large bedroom upstairs. The bathroom area on the porch would be the width of the porch and by the picture it would come back just in front of the window about 12 feet. It would be a 60 foot square area but not adding to it but enclosing the area in. It is not additional square footage.

T. Morgan asked looking at the picture where the roof porch is to the left it would start there and move to the right and it would end just beyond where the window is.

S. Holmes stated about where the post is where the entrance is and that side would be covered with hardy plank so there would be no door or window in that whole section which is next to the cottage next door which can be seen in the other photos.

T. Morgan asked that the 120 foot addition would be on the top of the shed roof and asked if that was a net addition of a bedroom or an enlargement of a bedroom.

S. Holmes stated that they were making a dormitory upstairs an enlarged bedroom. He is not sure what their plans are. If there is a partition between the front and back than that would be the addition of one bedroom but that has not been determined by them. The cottage next door is the one that they have now is smaller and the upstairs was a dormitory. They had all of their children and themselves in one large room. He is not sure of their final plans.

P. Monziona asked if the roof would stay the same that is over the porch right now.

S. Holmes responded yes. It will be repaired. The roof height will stay the same.

P. Monziona asked if the porch will get a new foundation in order to become a room.

S. Holmes responded yes and he would be working with the Code Enforcement Officer regarding all the details.

P. Monziona asked as far as the ridge line of the structure since what he is proposing to add to the shed part will match that ridge line and is it in the 35 foot height requirement.

S. Holmes responded yes and in one of the sketches that they sent the height might be listed there. He thinks it is less than 20 feet. The main floor will be seven to eight feet in addition to a four foot knee wall is twelve feet and the ridge it will be less than twenty feet.

T. Kinnon asked if the roofing on now will be entirely replaced and will there be a fire resistant roofing material.

S. Holmes states that the Conference Center does not allow metal roofs. It will be an asphalt shingle. It will probably be an architectural shingle which is heavier than a three tab.

T. Kinnon stated that there are several different types of material. He asked if the prohibition to the metal roofing is because of the style.

S. Holmes stated he thinks it is because of aesthetics. They want to keep the campground under a certain criteria that the campground is suppose to look like.

T. Kinnon stated that there are architectural metal roofs that mimic asphalt roofs.

S. Holmes said he would investigate that. The Fire Chief didn't seem to be as concerned with the roof as he was with the sides and the window exposure.

P. Monziona asked if they applied for the Special Exception under 320-4 which deals with expansion of use and that is because you are expanding the use of the structure to create the bathroom and expanded bedroom upstairs. They are staying within the footprint so they wouldn't be under B2C. So it is just 320 A24. He asked everyone if there were any further questions.

P. Monziona asked for public input in favor of the granting of this application.

Richard Smith, Director of the Campground, would like to clarify some things. They do support the work that is to be done. They have their building and grounds committee that is similar to the town and they have certain restrictions and certain criteria that have to be followed before they even request the variance or permits from the Town. Purpose is to keep the campground aesthetics and the campground aspects. In reference to the septic system he did meet with the Interim Building Inspector and they pulled out the prints as to that particular area and it goes into a tank and that tank is pumped up to nine leaching tanks that were put in a few years ago which he understands has more than enough capacity. The Building Inspector has not gotten back to say different but did see a copy of his note. If this is granted it may have to be done on the condition that they look at it. As far as the fire issues and the roofing, most of the roofs today are quite a bit more fire resistant than the old type. The Board of Directors voted not to use metal roofs on the campground but they did also mandate on the campground that when people do repair sidings of more than 20 percent or new building that it be fire retardant siding. The building facing it already has fire retardant siding on it. Regarding the impact of the septic system the family owned the cottage next door and sold it to a couple and they are just swapping building so the impact is the same. The cottage is summer use only. It does not meet the criteria of the campground to be anything other than summer use. There are certain criteria based on water, septic, plowing and safety. There are some on the outer fringes that perhaps could be used in the winter but are not normally used that way.

S. Penney stated that the Conservation Commission is still waiting for a definitive sign off from DES regarding the septic issues in the Bay. Mr. Smith stated he is too but DES allowed them to move forward with projects and are waiting for the plantings to winter over.

P. Monziona asked for public input in opposition to the granting of the application. There was none. Public input was closed.

T. Kinnon stated he would like to see the ABCCC explore and submit some data on fire resistance on the roofing material being used as well as the possibility of fire resistant curtains. Those along with the hardy plank siding reduce the potential of fire getting inside the structure.

P. Monziona added that the Board is particularly sensitive to the idea of fire danger in the ABCCC and we have to be very mindful of several buildings in close proximity. We need to be very mindful of allowing these buildings to get larger and larger as we go through the criteria. Secondly, whatever rules or regulations govern the ABCCC by virtue of deeds, are in no way governed by the Town and we don't necessarily consider it a summer use, we grant these variances and special exceptions, they run with the property and don't limit it to a summer structure so we have to view them as inhabitable year round even if they are not.

T. Morgan added that because of the conflict between the Building Inspector and their applicant regarding the septic, if we do approve this, there should be some conditional requirement that the Building Inspector be satisfied and sign off on the septic for this. Additionally on future applications, that should be a very important aspect of granting approval.

L. LaCourse added his concern is also the septic system and he would like to see some information on exactly how much it will hold because as we continue to go forward and we have more people coming, it would be nice to know what the actual load is versus how many people are loading it at that current time.

## WORKSHEET

- 1. A plat has been accepted by the Planner in accordance with Alton Zoning Ordinance Section 520 B. and a recommendation has been made.**

T. Kinnon stated the plat has been accepted by the Planner in accordance with Alton Zoning Ordinance Section 520 B and a recommendation has been made. Passes by unanimous vote

- 2. The specific site is an appropriate location for the use.**

P Monziona stated it is appropriate to continue it as it has been. It is expanding in size however, staying within the existing footprint. Passes by unanimous vote.

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

T. Morgan stated there was no testimony otherwise and it is improving the property therefore, enhancing the surrounding property values. Passes by unanimous vote.

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

L. LaCourse stated there was no objection from abutters. Passes by unanimous vote.

- 5. 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.**



T. Kinnon stated there will be no change in access ways or parking. Passes by unanimous vote.

**6. Adequate and appropriate facilities and utilities will be provided to insure proper operation of the proposed use or structure.**

P. Monziona stated as long as certain conditions are imposed such as adequate and appropriate septic will be provided. Passes by unanimous vote.

**7. There is adequate area for safe and sanitary sewage disposal and water supply.**

T. Morgan stated there must be an approval from the Code Enforcement Officer for septic loading before going forward. Passes by unanimous vote.

**8. The proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.**

L. LaCourse stated the request is consistent with the Alton Bay Christian Conference Center and the existing use isn't changing. Passes by unanimous vote

**MOTION:**

**Motion made by Timothy Kinnon to grant this Special Exception Case Z10-02 with conditions. Seconded by Timothy Morgan.**

**Conditions:**

1. Proven compliance of septic
2. Code Enforcement Officer signs off on septic issues.
3. Fire retardant siding is utilized that satisfies the Code Enforcement Officer as well as the Fire Department.

The motion passed by unanimous vote.

**VII. NEW APPLICATION:**

**Case Z10-03**

**Map 79 Lot 37**

**Variance**

**Carl & Donna Backman**

**490 Rattlesnake Island**

Application submitted by Tom Varney of Varney Engineering on behalf of applicants Carl & Donna Backman to request a Variance from Article 300 Section 327 Setbacks to allow the building of a deck, 161 square feet on the front, and 33.5 square feet on the side of their cottage within the 50 shoreland setbacks. This parcel is located in the Lakeshore Residential zone.

The Board reviewed the application.

**Motion made by Timothy Kinnon to accept the application as complete. Seconded by Timothy Morgan, vote: unanimous.**

Tom Varney on behalf of Carl and Donna Backman requesting to build a deck on the front of the property. The deck will be 13 feet from the lake and built on sonotubes. No heavy equipment will be on the property. The deck will not be expanding beyond its original size. DES stated no shoreland permits were required.

T. Morgan asked for clarification if the distance from the south edge of the deck to the lake is 13 feet?

T. Varney stated that was correct.

S. Penney added after going through assessing records, this deck is a little smaller and well within the parameters and the new deck is a foot back from the original size.

P. Monziona opened it to public input and asked if there was anyone who would like to speak in favor of the application being granted? Seeing no one P. Monziona asked if there was anyone in opposition of the application being granted? Seeing no one, public input was closed.

Worksheet:

Public Interest: The variance **will not** be contrary to the public interest.

**All in favor**

**Reason: Proposed deck is smaller in area than previous deck.**

Spirit of the Ordinance: The request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, character of the district within which it is proposed.

**All in favor**

**Reason: Same use, not expanding at all and a reasonable request.**

Substantial Justice: By granting the variance substantial justice **will** be done.

**All in favor**

**Reason: It will continue to be used as a deck and the smaller size improves the non-conformity.**

Value of Surrounding Properties: The request **will not** diminish the value of surrounding properties.

**All in favor.**

**Reason: It is a proposed improvement to the property and no evidence has been submitted proving otherwise.**

Hardship:

(A(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.

**All in favor.**

(A(ii))The proposed use is a reasonable one.

**All in favor.**

(B) Based on the above analysis, special conditions do exist such the literal enforcement of the Zoning Ordinance results in unnecessary hardship

**All in favor**

**Reason: The proposal is not a change in use, it is a reasonable request and if it were literally enforced the improvements could not be accomplished.**

**Motion made by Timothy Morgan to grant application Z10-03. Seconded by Lou LaCourse; vote: unanimous.**

**OTHER BUSINESS:**

1. **Old Business:**
2. **New Business**

T. Morgan stated the Planning Board started a Delineation Committee and both he and Lou have been attending. The reason for this is surrounding placement of new zoning in town and they've asked a couple questions and requested feedback from the ZBA as a Board.

1. How many zones do you think there should be?
2. If we have zones we call "commercial" should commercial zones be delineated into specific allowable uses?
3. Looking at existing zones, they asked that we look at each zone and see if there are things that would be an absolute prohibition and from the table of uses, those allowed by special exception, would we like to see them as allowable uses? They are looking for recommendations to submit to the public for a charrette.

S. Penney stated she will get the subset outline to the Board for review. S. Penney added there are three subcommittees and they are Natural Resources, which encompasses the environmental aspects, Historic District, and Architectural Review but not as a Site Plan component but to try and get some definitive design criteria down. The Delineation is hoping for public interest and involvement on the first and third Tuesday of the month at 5:00pm. T. Monziona stated he thinks this is a great project and suggested as they meet as a Board, they can take time at the end of the meeting and try to formulate answers as a Board and present them or we can just show up and provide answers after we've had a chance to discuss them. L. LaCourse added the decision to split up the commercial zones will have a lot of impact because if you're going to have a historical section in Town, you're only going to want certain types of businesses in there. T. Morgan asked S. Penney with the delineation outline and asked that if Board members could think about it a little, at the next meeting they could have a little workshop at the end and see what they come up with.

3. **Minutes:** November 5, 2009 Approved as written and January 7, 2010 approved as written.
4. **Correspondence:**

**Motion made by Timothy Morgan to adjourn. Seconded by Timothy Kinnon, vote: unanimous.**

**Adjournment**

Paul Monziona, Chairman

