

**TOWN OF ALTON ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MINUTES 2019
FEBRUARY 7, 2019**

APPROVED

Members Present:

Paul LaRochelle, Chairman
Lou LaCourse, Vice-Chairman
Paul Monzione, Clerk
Tim Morgan, Member
Frank Rich, Member

Others Present:

John Dever, III, Code Official

CALL TO ORDER

Paul LaRochelle called the meeting to order at 6:00 P.M.

APPOINTMENT OF ALTERNATES

Paul Monzione MOVED to appoint Frank Rich as a full voting member for tonight's meeting.

Lou LaCourse seconded the motion.

DISCUSSION:

Paul Monzione stated that Frank Rich had been voted in as a full member of the ZBA at the previous meeting by the remaining members to fill in a vacant seat, but since he had not had an opportunity to be sworn in yet, Paul Monzione thought it was best to appoint Frank Rich as an alternate.

Paul LaRochelle asked the Board for a vote. Motion PASSED by a vote of (4-0-0).

APPROVAL OF AGENDA

Lou LaCourse MOVED to accept the agenda as presented.

Frank Rich seconded the motion, and it PASSED by a vote of (5-0-0).

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.

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CONTINUED FROM JANUARY 3, 2019

<p>Case #Z18-33 Thomas W. Varney, P.E., of Varney Engineering, LLC, Agent for Outside In Construction/Jesse Lindland, Applicant; and Sherideth Seeley, Owner</p>	<p>8 Back Bay Path Map 34 Lot 33-31</p>	<p>Special Exception Residential (R) Zone</p>
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A Special Exception is requested from **Article 300 Section 320A. 4., 6., & 7. and Section 320B. 2.c. & 5.** of the Zoning Ordinance to permit the existing cottage to be torn down and replaced with a new building that has an increased height and is expanded 5’ at the rear of the building.

The Chairman read the case into the record.

Present were Thomas W. Varney, P.E., agent; Ruth Smith, Sherideth Seeley’s daughter; Steve Smith, Ruth Smith’s husband; and Jesse Lindland, contractor.

Thomas W. Varney, P.E., Ruth Smith, Steve Smith, and Jesse Lindland came to the table. Paul LaRochelle noted that at the last meeting, the applicant was supposed to contact the Fire Department, and it appeared that they had. John Dever, III, stated that he had given the Board the outcome of that conversation. Initially, the Fire Department thought that the back of the cottage was the side facing Back Bay Path, and that the expansion was going to be into that road, which he did not want to happen because it would cut down on the access way. Once John Dever, III, and Jesse Lindland met with the Fire Department and went over the application further, they did not have any issues with the proposal.

Paul LaRochelle noted that at the last meeting, the Board had already opened and closed public input. He asked the Board if they had any further discussion. Paul Monzione stated that there were two concerns from the last meeting that needed to be addressed, one was the Fire Department’s concerns, which had been addressed, and there was a concern with the expansion of the total square footage. He pointed out that this application had to do with expansion of use and expansion of square footage (92’). He was not entirely sure if they went hand in hand. Originally, the building was 526.5 s.f. and the proposal was 624 s.f. Paul Monzione had an issue with the provisions of the ordinance that stated the Special Exception should not be granted if the total square footage was going to be expanded. He noted that the Board discussed that sometimes the expansion was de minimis or not of significance; therefore, in the past the Board had interpreted the ordinance to permit a slight expansion of the square footage. Paul LaRochelle showed Paul Monzione some pictures of other surrounding structures that were built after the big fire and those structures were enlarged. Paul Monzione was not sure how those structures were approved; whether they received Variances as opposed to Special Exceptions. He agreed that the pictures showed that there were tremendous improvements, and what the builder was proposing to do appeared to be an excellent plan with great workmanship, but he wanted the Board to go strictly by the law that they were bound by, and that was that the Board had to enforce the ordinance as it was currently drafted. Tim Morgan thought there had been plenty of examples in the past, which the Board had allowed a slight expansion particularly where it did not increase the nonconformity, which was the case with this application.

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Frank Rich mentioned that John Dever, III, had submitted some additional information to the Board that although these particular buildings that were rebuilt in that area did not go to the ZBA, they did go to the Planning Board years ago; three out of the four structures were approved with the new square footage. He did not think that the Board was doing something detrimental to the process of following the Zoning Ordinances. Paul Monziona pointed out that the difference with the previous structures being built and this structure being built was that this application was applying under an ordinance that was for a voluntary demolition of a structure; the other structures were demolished by a fire.

Paul Monziona shared that when the Zoning Amendment Committee (ZAC) proposed this ordinance, it allowed people to replace dilapidated structures, but when the structure was replaced, it was supposed to be less nonconforming, for example, moving the structure back from the lake or a setback. The ordinance also addressed that the use could not be expanded, and the structure needed to stay within the same square footage. He believed that when the other structures burned down and were replaced, the reason why they went before the Planning Board was because the structures were lost in a fire and there was no zoning regulation at that time. He thought that this proposal was more compliant with the purpose of the zoning regulation because it was a safer structure, fire wise.

John Dever, III, stated that he submitted a packet of information to the Board that addressed this situation. He reviewed the ordinance in depth and provided copies of Notices of Decision from cases in the past that the Board had approved where the expansion of use was applied for in order to expand in such a situation as this one. He pointed out that one of the difficulties were if this proposal was a nonconforming structure and was entirely within the setback, the ordinance allowed the structure to expand back towards the building envelope. There was no provision of any kind for nonconforming uses, so in order to expand the footprint of a nonconforming use, the applicant would have to apply under nonconforming structures. One of the cases that the Board looked at over the last few years included a mobile home on Clark Road; it was a minor expansion that did not have a setback issue, but was a use issue because there were two dwellings on the same lot.

Thomas W. Varney, P.E., mentioned that he was under the impression that an expansion of use was like a residential use being turned into a drug store or a gas station, but now he realized that by making a structure bigger made it fall under expansion of use. Paul Monziona thought that the language of this ordinance would be presented to ZAC next year to clarify things better. John Dever, III, noted that this year, the ZAC Committee was streamlining and rewriting this ordinance because there was always an issue with trying to interpret it. He shared that Nic Strong, Town Planner, did a lot of work on redrafting this ordinance. Lou LaCourse thought that when the Board made exceptions, it was usually because there had been something else that would balance that decision; the balance usually involved more environmentally acceptable landscaping or a greater amount of pervious land.

Paul LaRochelle opened public input. No public input. Paul LaRochelle closed public input.

Paul LaRochelle moved the Board onto the worksheet.

Lou LaCourse stated that a plat **has been** submitted in accordance with the appropriate criteria in Article 500, Section 520B.

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All Board members agreed.

Paul LaRochelle stated that the specific site **is** an appropriate location for the use. He stated this was exactly what needed to be done when a piece of property was close to the lake when a structure needed to be rebuilt; making it more in kind with the other surrounding structures. Paul Monziona stated that the specific site was an appropriate location for the use because the use itself was not changing; it was a residential use.

All Board members agreed.

Paul Monziona stated that factual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated that there was no incompatible land use and the improvement taking place would not in any way negatively impact property values; it would help property values.

All Board members agreed.

Frank Rich stated there **is no** valid objection from abutters based on demonstrable fact. He stated that at the last meeting, there were no objections from the abutters; the only objection was from the Fire Chief and it was because of his misunderstanding of what the applicant was trying to do.

All Board members agreed.

Tim Morgan stated that 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. He stated that there was no impact on vehicular traffic and there was no parking involved with this project. Lou LaCourse stated that if there was traffic, it would be foot traffic, and that this project would not create an issue for that. Paul Monziona stated that there was no undue nuisance or serious hazard. Frank Rich stated that pedestrian or vehicular traffic would be enhanced because of this proposal.

All Board members agreed.

Lou LaCourse stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of the proposed use or structure as stipulated. He stated that the appropriate facilities and utilities currently existed and he was sure they would be upgraded according to the building regulations.

All Board members agreed.

Paul LaRochelle stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated that this property was connected to the community septic system and had seasonal town water.

All Board members agreed.

Paul Monziona stated that the proposed use or structure **is** consistent with the spirit of the ordinance, and the intent of the Master Plan. He stated that the Board discussed the spirit of the ordinance, and he thought that it was put in place to ensure public safety. The Board was given a lot of information that this structure would make the area even safer than it was with the prior structure. The intent of the Master Plan was to maintain rural character and to improve surroundings when possible; this proposal would do both.

All Board members agreed.

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**Frank Rich MOVED to GRANT the Special Exception for Case #Z18-33, with the condition that the applicant obtain their NH DES Shoreland Permit, and the two memos from John Dever, III, dated January 30 2019, and the inclusions, be part of the record.
Lou LaCourse seconded the motion.**

DISCUSSION:

Paul Monziona stated that the conditions were the approvals. Frank Rich stated that the conditions were stated at last month’s hearing and he wanted to make sure that those conditions were met. John Dever, III, stated that the conditions for the Fire Department were met, but the applicant needed to acquire a DES Shoreland Permit.

Paul LaRochelle asked the Board for a vote. The motion PASSED by a vote of (5-0-0).

NEW APPLICATIONS

<p>Case #Z19-04 John Tuttle, Agent for Stephen & Roberta Smith, Owners</p>	<p>121 Muchado Hill Road Map 1 Lot 49</p>	<p>Equitable Waiver of Dimensional Requirements Rural (RU) Zone</p>
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An Equitable Waiver of Dimensional Requirements is requested from **Article 500 Section 540** of the Zoning Ordinance to permit a nonconforming setback.

**Lou LaCourse MOVED to accept application # Z19-04 as complete.
Tim Morgan seconded. Motion PASSED with a vote of (5-0-0).**

The Chairman read the case into the record.

Present was John Tuttle, agent.

John Tuttle came to the table. He stated that the house that was built was approximately 18” into the 10’ setback. After the house was built, the owners had the land surveyed for the final process of their loan and that was when they found out that the house was built within the setback.

Lou LaCourse asked when the house was built. John Tuttle stated that the house was completed on November 14, 2018. Paul Monziona asked if Mr. Tuttle was the builder. John Tuttle stated, yes, he was the one who pulled the permit, but he was not the one who placed the foundation. Paul Monziona asked who that subcontractor was. John Tuttle stated that the company was not a subcontractor for him; the company originally was going to put in a modular home. The subcontractor contacted Jim Varney to put in the foundation, septic system, and to do the ground work. After the owners decided not to put in the modular home, they hired John Tuttle to build the house; therefore, the foundation was already in place.

John Tuttle stated that someone came out to shoot the corner of the house because it was close to the setback, but someone obviously got it wrong. Paul Monziona asked if the subcontractor shot the corner

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prior to construction of the foundation. John Tuttle thought that was the case. He noted that he talked to Jim Varney a couple of weeks ago and he told him that the subcontractor had to blast a hole because there was ledge in the area, and he did shoot the corner where the hole was supposed to go. The concrete guy came in and set the foundation. Paul Monzione asked why Mr. Zuzgo surveyed the property after the fact. John Tuttle stated because there was a construction loan at the time, and after the construction was finished, they flipped the loan over to a permanent loan, and when the permanent loan was made, the bank wanted it surveyed. Paul Monzione noted that the bank required a survey as part of its financing, and it was at that point when the discrepancy was found. Paul Monzione asked to the best of John Tuttle's knowledge, prior to pouring the foundation, somebody had shot that corner. He asked if there was a different surveyor than Mr. Zuzgo that came out and did that. John Tuttle thought that it was Mr. Zuzgo that did the initial survey, and to the best of his knowledge, Mr. Zuzgo placed a pin where the house was supposed to go; that was what he was told. John Tuttle shared with the Board that he had been involved with numerous construction loans throughout the years and a lot of the banks that he dealt with usually had the land shot before the foundation boards were even set up and concrete was poured. He pointed out that the bank, Holy Rosary, did not do things that way. He thought that part of the reason was that they did not get the bank loan until after the foundation was poured; therefore, when the bank came out on the construction loan, the foundation was already there.

Paul Monzione asked what abutted that side property line. John Tuttle stated that there was a house about 300' away from the property line. Paul Monzione noted that he saw an aerial photograph of the property and he saw that there was a possible right-of-way. John Tuttle stated there was an electrical right-of-way on the other side. He stated that the problem with the lot was that a very small portion of the lot was located in Alton, and the larger portion was located in Barnstead; therefore, they were trying to squeeze the house on the Alton side of the lot.

Lou LaCourse asked John Dever, III, if he could shed some light on this issue. John Dever, III, stated that he was the Building Inspector for the Town, and he was not happy to hear about the setback issue. The problem was that he was working with information that was given to him and he realized that the owners were trying to squeeze the house onto the portion of the lot in Alton, but he was told that the owners already took care of making sure that area was where the house was supposed to be located. He shared that there had been times in the past that he thought projects were close to the setbacks, but in this case, he thought that with the assurances he had received, the house was where it was supposed to be.

John Tuttle stated that if the Board looked at the placement of the house in reference to the two (2) septic system pins, everything was exactly as it should have been. He thought that when the subcontractor came out to dynamite the site, maybe the hole was blown 18" more than where the pin was set. He stated that he had built on lots before that were close to setbacks and when he went in from the beginning, he required his workers to run strings along the sideline so he could have an exact measurement of where the foundation was poured.

Paul Monzione asked how much of the structure was within the setback. John Tuttle stated that because the house was located on an angle, a corner of the house that was 14' x 1.5' was inside the setback. Frank Rich asked John Dever, III, if the septic system was located on the Barnstead portion of the property; he stated it was on the opposite side of the house, which was on the Alton portion of the property. Paul

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LaRochelle noted that judging by the picture, he could not tell if the other house could be seen. John Tuttle stated that he was not sure if the house could be seen because most of the land was cleared, but there was a 50' wide swath of trees that ran between the two properties.

Paul LaRochelle asked if anyone at any point in time thought to themselves, this house was real close to the property line and maybe someone should have double checked it. John Tuttle stated that there were survey markers for the septic system and he used them to make sure the house was in the correct position, and after the foundation was put in, no one thought to pull a line. Paul LaRochelle asked if the area was backfilled right away. John Tuttle stated that the area sat over the winter; foundation was poured in December of 2017, and the bank approval did not get done until after April when he started construction of the house. He noted that the bank inspector was concerned that the house sat over the wintertime, but he explained that the house was built on ledge. John Tuttle stated that Mr. Varney did a good job of putting stone in the basement and sand all around so no water would get into the foundation itself. John Tuttle stated that the inspector said to him that if the house was built and something happened to the foundation, he would be liable because his name was on the building permit.

Paul LaRochelle opened public input. No public input. Paul LaRochelle closed public input.

Paul LaRochelle asked Mr. Tuttle if he had anything more to add. He thanked the Board for hearing the case and thanked John Dever, III, for calming down the owners because they were very concerned. Frank Rich asked if the bank was holding up funding because of this issue. John Tuttle thought that they were, but he was not positive.

Paul Monzione stated that the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. He thought that this was true because the owners did not know, and the Code Enforcement Officer did not know either. He stated the violation was not due to ignorance of the law, ordinance or failure to inquire, obfuscation, misrepresentation of bad faith on the part of the owner; he did not see any of that. This issue was caused by a good faith error in the measurement or calculation, and the physical or dimensional violation did not constitute a public or private nuisance and would not diminish property values in the area or interfere adversely with permissible uses. Due to the degree of past construction or investment, the Board could not enforce the tearing down of this structure just because of the 18" encroachment. He thought that all of the criteria required of an equitable waiver of dimensional requirements were met in this case. All Board members agreed.

Lou LaCourse pointed out that one of the criteria stated that in lieu of the findings required by the Board under subparagraphs 1 and 2, the owner may demonstrate to the satisfaction of the Board that the violation had existed for 10 years or more. Paul Monzione stated that would not apply because the structure was not built until 2018.

Paul LaRochelle moved the Board onto the worksheet.

Paul Monzione stated that the violation was not noticed or discovered by any owner, former owner,

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owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. He stated, yes. Lou LaCourse thought that the blasting of the foundation may have created a bigger hole than expected; it may have initiated the shift in the foundation itself. Paul LaRochelle agreed, and he thought that it could be an oversight; when a project was under construction, and it was not backfilled right away, a builder would not have anything to compare it to and it would not be noticed right away.

All Board members agreed.

Frank Rich stated that the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent representative, **but** was instead caused by either a good faith error in measurement or calculation made by an owner or owner's representative, or by an error of ordinance interpretation applicability made by the municipal official in the process of issuing a permit over which the official had authority.

All Board members agreed.

Tim Morgan stated that the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property. He stated that the 10' setback was intended for a couple of reasons, one was to avoid overcrowding, and the other was to give room for fire and other safety apparatus. He pointed out that the abutting house was several hundred feet away.

All Board members agreed.

Lou LaCourse stated that due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected. He stated that there was no public benefit to be gained by making a correction by removing 14 s.f. or so of a house because 18" of the house was within the setback. Frank Rich stated that there were probably funds being held up and there was a lot of anxiety by the owners in terms of the cost that would be associated with some sort of legal battle to get this rectified.

All Board members agreed.

Paul Monziona MOVED to grant the application for Case #Z19-04 for an Equitable Waiver of Dimensional Requirements.

Tim Morgan seconded. The motion PASSED by a vote of (5-0-0).

OTHER BUSINESS

1. Previous Business:

2. New Business:

a. Discussion and review of 2019 Proposed Zoning Amendments and Town & Citizen Petition.

John Dever, III, informed the Board that the Zoning Amendment Committee (ZAC) came

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up with some amendments to the zoning ordinances, and there was a petitioned amendment. One of the amendments was in Section 320. Nonconforming Uses. Nic Strong, Town Planner, came up with a rewrite on a lot of it. John Dever, III, pointed out that the current language in A.4. was confusing, “Nonconforming uses shall not be altered, expanded or changed, except that minor changes that meet the criteria below, may be permitted by Special Exception. The applicant shall demonstrate that the conditions applicable to Special Exceptions in Section 520 below have been met. In addition to the general Special Exception criteria, the applicant shall demonstrate that the proposed expansion/alteration/change (1) does not substantially change the nature and purpose of the original use; (2) the expansion/alteration/change does not have a substantially different effect on the neighborhood; (3) the expansion/alteration/change does not make any existing conforming building nonconforming within the terms of this ordinance; and, (4) the expansion/alteration/change does not render the premises proportionally less adequate for the use in terms of the requirements of this ordinance.” The ordinance allowed applicants to make small changes, like with Case Z18-33 at tonight’s meeting. He stated that this was the only ordinance that something like that fit under, but it only sort of fit. The new wording is much clearer. He pointed out that currently the expansion of use would be used for these types of situations, but expansion of use was essentially used if someone wanted to add another room, or if there was a small shop and the applicant wanted to turn it into a larger shop. It had been a very gray area. The use would be nonconforming and dimensionally the structure was being expanded.

Frank Rich asked how Case # Z18-33 would have been different if these new changes were in effect now. John Dever, III, stated that it would give the Board guidelines to allow for the dimensional expansion. The ordinance asks, “Will the expansion change the nature and purpose of the original use, well with this case it would not have. Another question was, “Will the expansion have a substantially different effect on the neighborhood”, in this case it did not. “Will the expansion make an existing conforming building nonconforming for setbacks”, in this case it did not. Paul Monziona stated that applicants would just apply under the proposed, J. Replacement of Nonconforming Structures that are Voluntarily Removed. He stated that this was a nonconforming structure. John Dever, III, stated that it was not a nonconforming structure; it was a nonconforming use because the property had multiple residential uses on one lot. Frank Rich asked how much square footage did the Board allow for Case #Z18-33; John Dever, III, stated, 94 s.f. Frank Rich pointed out that the Board would still have to be extremely careful on how they use the proposed ordinance because 90 s.f. could easily become 150 s.f. on another application. He wondered what a minimal amount would be.

John Dever, III, stated that the Board now had some set criteria that they could refer to when making a decision. Paul LaRochelle thought that the proposed language was more accommodating for someone trying to do the right thing in making their property less nonconforming. John Dever, III, stated that at the beginning of the ordinance stated, “Nonconforming uses should not be altered, expanded, or changed, except that minor changes that meet the criteria below. He pointed out that if someone came in and stated

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that they had a 600 s.f. cottage and they wanted to add 1,000 s.f. to it, proportionately that was not minor. If the Board was to deny them and they went to court, the court would look at the criteria that would now be spelled out. He thought that the court would side with the ZBA because that was not a minor expansion. Lou LaCourse thought that most of the requests involved were wanting to move a deck, or a stairway closer to the water. John Dever, III, thought that expanding a deck was far less of an impact compared to wanting to expand a foundation, but that would be a judgement call for the ZBA to decide.

Frank Rich noted that Paul Monziona stated that the other homes were destroyed by a fire, but with Case #Z18-33, the structure was voluntarily torn down. He wondered if there had to be a distinction between the two. Tim Morgan stated that sometimes people would leave up a wall and state that they had not taken the whole structure down.

John Dever, III, stated that the second amendment that ZAC addressed was the section regarding condominiums. The ordinance limited the number of units in one building to four (4), but when you built a multi-family structure like an apartment building, the number of units allowed was five (5). This amendment increased the number of units to make the ordinances uniform.

Paul LaRochelle asked if ZAC talked about setting up the next ZAC Committee. John Dever, III, stated that they suggested setting up an initial meeting at the end of April that way when they reconvened later on in the year the members could present the amendments that they thought were most important to address.

John Dever, III, addressed amendment #3. This included a change to the Stormwater Management Ordinance. Currently, if a homeowner decided to dig a big ditch and run the water onto their neighbor's land, there was no remedy for the neighbor in Federal or State law, other than civil trespass. He noted that there was no stormwater management for new construction or major alterations, unless the entity was a commercial operation and went through the Site Plan process, or the homeowner was within the shoreland buffer zone. The ZAC Committee thought that this type of preventative procedure should apply to any type of development, for example, the flow of water should not be any more when the project was done than it was when the project was started, and during the course of the project.

John Dever, III, addressed amendment #4, which was a new use. This was an ordinance for a product storage area. For example, if a homeowner decided to start selling shipping containers on the internet, but they needed a place to store them, this would allow for that use to take place. This ordinance would allow the storage of a product, but the product would have to be taken somewhere else to be put together and sold. He noted that there were several criteria that needed to be adhered to, which included going to the Planning Board. The proposal was for this use to be allowed in the Rural and Residential Rural districts, but at one of the hearings, the Planning Board decided to add the use to the Residential Commercial District.

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John Dever, III, addressed the petitioned amendment. He pointed out that last year the road frontages were changed in the Lakeshore Residential District. The lakeside only required 30' of road frontage, but on the other side of the street, it required 150' of road frontage. So, last year's amendment increased the lakeside to 50' and reduced the other side of the street to 75' for the required road frontage. One of the main reasons was when ZAC looked at all of the other residential zones that had smaller lot requirements, they only required 75' of frontage; therefore, this amendment made the requirements more universal. There was a resident that was opposed to these changes, and their petition asked, "Are you in favor of rescinding Planning Board Proposed Amendment #6, Warrant Article #7 presented and adopted at the 2018 ballot, which reduces frontal required from 150' to 75' due to the detrimental environmental impact on the lake and the value of the lake properties." John Dever, III, stated that when it was presented to the Planning Board, their options were to either support or not to support the petition. The ultimate vote was that they did not support it; it was a 2:3 vote.

The issue with this petition was that the first part of it asked for the amendment to be rescinded completely, but Jim Sessler, Town Council, was not sure if there was a precedent for rescinding a whole article; therefore, the request would ask for the lakeside to go back to 30', and the other side to go back to 150'. Paul Monzione wondered if the amendment was rescinded, where did that leave the ordinance; did it go back to the original ordinance that was amended, or did it eliminate the ordinance altogether.

- b. Discussion of the research found on Article 300, Section 320A. 4. Expansion of Use.

John Dever, III, submitted some information to the Board regarding the different cases that they had dealt with in the past about doing a nonconforming use for minor expansions.

- c. Discussion and review of research found on the Back Bay reconstruction.

John Dever, III, submitted some research information to the Board about the other cottages that had burnt down and were rebuilt. None of the rebuilt cottages went before the Planning Board and were subject to a review, but they should have been at the time because they would have required Variances to expand the footprint.

3. Approval of Minutes: January 3, 2019

Tim Morgan noted that the sentence, "Paul Monzione wanted to know if there was a way to achieve a greater nonconformance...." should state, "to achieve a lesser nonconformance...." on page 4, first paragraph. He also noted that on page 12, "The Fire Department did not want to see things like happen.....", should state, "The Fire Department did not want to see things like this happen....".

**Paul Monzione MOVED to accept the minutes of January 3, 2019, as amended.
Lou LaCourse seconded the motion, and it PASSED by a vote of (5-0-0).**

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4. Correspondence:

ADJOURNMENT

**At 7:26 P.M., Paul Monzione MOVED to adjourn.
Lou LaCourse seconded the motion, and it PASSED by a vote of (5-0-0).**

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as presented: March 7, 2019