

**TOWN OF ALTON
ALTON ZONING BOARD
MEETING MINUTES
DRAFT
APRIL 2, 2009
ALTON TOWN HALL**

Members Present: Timothy Morgan, Chair
Timothy Kinnon
Paul Monzione
Stephen Hurst

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

I. CALL TO ORDER

T. Morgan called the meeting to order at 7:00 PM.

II. INTRODUCTION OF BOARD MEMBERS

T. Morgan noted that there was only a four member board sitting at the meeting tonight, as a newly elected board member was absent.

III. APPOINTMENT OF ALTERNATES

There were no alternates appointed.

IV. STATEMENT OF THE APPEAL PROCESS

T. Morgan read the Statement of the Appeal Process.

V. APPROVAL OF AGENDA

P. Monzione motioned to approve the agenda as presented and T. Kinnon seconded the motion. The motion passed by unanimous vote. (TM, PM, TK, SH)

VI. CONTINUANCE

**Case # Z09-05
Alan & Christing Soucy**

May 62; Lot 3

**Special Exception
41 Indian Shores Road**

Application submitted by John Otte of Samyn-D'Elia Architects on behalf of applications Alan & Christine Soucy to request a Special Exception from Article 300; Section 320 b2 to allow for the

expansion of a non-conforming structure. This parcel is located within the Lakeshore Residential zone.

MOTION:

T. Kinnon motioned to accept the application for Case # Z09-05 as complete and S. Hurst seconded the motion. The motion passed by unanimous vote. (TK, TM, PM, SH)

John Ott of Samyn-D'Elia Architects represented applicants Alan and Christing Soucy. He apologized to the board for not being at the March meeting of the ZBA. He reported that they are requesting a Special Exception to allow for the expansion of a cottage that is on the property and to fill in behind the existing structure with about 72 sq/ft. He presented a map of the lot to show where the cottage was located. The septic permits have been received from the state as well. HE showed where part of the structure was already in part of the setback. P. Monzione asked for clarification on where the existing structure was located and J. Ott noted that the setback would be within the existing footprint of the structure on the property at this time. The DES has seen the 72 ft/ set back and they have received approval from the state for this waiver. The building will be in all conformity and the expansion is within the setbacks.

T. Morgan asked if this would be a Special Exception and if it fell into Article 300; Section 320; B-2. It was found that this fell under 300; 320; B-2-C.

There was discussion about the reduction of impervious surface. There will be a slight decrease of the impervious surface.

There were no comments from the public. There was a note from the Conservation Committee re: nonconforming.

The Committee discussed the expansion and the proposed changes to the existing structure. T. Kinnon noted that this plan would bring the septic system further away from the lake.

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 he believed this to be true and all Board members agreed.

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

T. Morgan stated the use of the building will not be changing but the size of the structure. All Board members agreed.

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

P. Monzion stated he could not see how this could change the value. All Board members agreed.

4. There is not valid objection from abutters based on demonstrable fact.

S. Hurst stated there were no members of the public present to speak against this. All Board members agreed.

5. There is not undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

T. Kinnon felt this would be true and all Board members agreed.

6. Adequate and appropriate facilities and utilities will be provided to insure property operations of the of the proposed use or structure.

T. Morgan felt that there were adequate and appropriate facilities and utilities. All Board members agreed.

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

P. Monziona spoke about the permits and waivers that have been obtained already. All Board members agreed.

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

S. Hurst felt that this criteria was met. T. Kinnon agreed. T. Morgan felt this was a difficult call to make but felt that this was in the spirit of this ordinance and the intent of the Master Plan. P. Monziona agreed.

MOTION:

T. Morgan motioned to approve the request for a Special Exception for Case #Z09-05 with the two following conditions:

- 1.All federal, state and local required permits shall be successfully obtained including the NHDES shoreland setback waiver.**
- 2.All prescribed environmental mitigation and BMPs within the shoreland beffer be implemented including reduction of impervious surface as proposed**
- 3.Rebuilt structure must conform to height naximum limit of 35 fee including chimneys and cupola or acquire an additional special exception from the ZBA.**

P. Monziona seconded the motion. The motion passed by unanimous vote. (TK, TM, PM, SH)

**Case # Z09-09
Brewster Academy**

Map 21; Lot 12-2

**Use Variance
Roberts Cove Road**

Application submitted by Robert C. Varney of Walker & Varney P.C. on behalf of applicant Brewster Academy to request a Variance from Article 400; Section 401 to allow for the preexisting buildings and site to be used for mixed student-faculty housing; classroom; instructional support and student-recreation/leadership training. This parcel is located within the Lakeshore Residential zone.

T. Morgan reported that he had a professional relationship with Robert C. Varney and left it up to the Board to decide if they wished for him to remain on the Board for this case. It was the consensus of the Board that T. Morgan would be objective for this case.

R. Varney spoke about the waivers that are being requested. He described the plans of the school to have housing, a classroom lab area, and the school's plans for a new water system.
[WAIVERS?]

T. Morgan opened the floor to public input.

Shean Manchester, an attorney for the abutter, Averill Babson, spoke against the request for the use variance because of the lack of information that they have here. She stated that her client had no idea what would be approved, if it is approved. She objected to the waiver request and asked for the applicant to have more information to present.

R. Varney stated he was aware of the criticism but that they would not be doing violence to the private value of the abutting properties. He stated that the details that would be provided by these waivers would not be material in this request for waivers. P. Monziona stated that if they granted these waivers that are being requested that it will be only for this Use Variance and not for other exceptions or variances.

MOTION:

T. Kinnon motioned to accept the application for Case #Z09-09 as complete and to accept the waivers that have been submitted. P. Monziona seconded the motion. The motion passed by unanimous vote. (PM, TM, TK, SH)

Dr. Michael Cooper, a representative from Brewster Academy, spoke about the statistics of the school population, faculty to student ratio and other demographics of the school. He spoke about the ecosystem lab that is being proposed and the co-curricular camp that they are planning for team building exercises and workshops. He spoke about the use of the lands and felt that there would be substantial savings by taking students to the Robert Cove Road area to do this. He spoke about the Outdoor Skills classes, faculty seminars and other uses that the area will be used for. This would be used for academic purposes. There would be about 50 to 60 students in a group at a time that would be using the property. It would be for three-season use.

R. Varney stated that they had requested a Use Variance. He spoke about the issue of hardship and felt that it was unfair to apply it to this property because of the uniqueness of this property. He spoke about the supervision of the students and felt that any ideas that the students would be unruly and loud were unfounded. There will not be any heavy commercial use of the property or commercial traffic. All use will be academic-related. Currently there are seven cabins on this property and it is already in non-conforming use. He spoke how this request and the use of the property met the spirit of the master plan and that it would help to discourage over-crowding and felt there would be a very light footprint on this property would help keep this from having an intensive use of the property. He felt that no public interest was offended by the use of this property and that this was not creating a large intrusion on the property.

T. Kinnon asked if there would be any trucks on the property that would be six tons or more. Dr. Cooper stated that the buses did not exceed the weight limits on the roads. There will be no dining facility on the property. The hours of operation would generally be weekdays, with occasionally evening (overnights). There would be visitors from the music program housed on the property; but not for music events. There was discussion about other uses of the property.

It was noted that there was a letter in the Board's packet from an abutter.

Averill Babson stated that she was an abutter to the property. She stated she was not worried about the use of the property being intensely used. She felt there was a problem with the exact numbers of students using it, traffic, and other issues. She reported that one building that abuts her property is right along her beach. She spoke about where her beach was located and the road right-of-ways and felt that the right-of-way was not well marked on the maps. She asked for more details on the plans for the project and the impact it may have on her property's value. She asked why the school could not use the property in the way that it was being used and noted that it was not unique to her property.

S. Manchester stated that this was going to be changed for Commercial Use and listed some of the uses mentioned earlier, such as workshops, team building, etc., and stated that the Town of Alton has adopted an ordinance and that this is primarily residential. She stated that there is nothing unique to this property as to others that are in the area. She felt the neighboring property will have diminished value because of the noise and traffic that would be brought to the area. She stated that the applicant had the burden of proof and failing any of them, that the variance should be denied.

S. Penney asked how the use of this property, if the variance was granted, would be beneficial to Alton. R. Varney spoke about the growth of Brewster Academy and stated that the existence of the facility within the community was a benefit. He stated that this is not for commercial use but that it is a non-profit, education-based use of the property. He felt it would gradually work itself into the fabric of the community.

Mark Knight, an abutter asked how this would affect the taxes on the land or if the taxes would be affected. S. Penney reported that this would need to be decided by Town Assessor and Board of Selectmen.

T. Morgan reported there were two letters in the packet; one in favor of the application from abutter Bonnie Dunbar and one not in favor of the application. The Board discussed the application and decided to go into deliberations.

1. The variance will not be contrary to the public interest.

T. Kinnon felt that S. Manchester had legitimate concerns but felt that the concerns should be addressed by the school. P. Monziona felt that this would be a good thing for the public. S. Hurst felt that some kind of protection for the abutters should be put in place. All members agreed.

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

T. Morgan felt that this was in harmony and that it was going to be used for education. All members agreed.

3. By granting the variance, substantial justice will be done.

P. Monziona felt that the zoning all on a similar use in a recreation and felt they were not going far a field from this. All members agreed.

4. The request will/will not diminish the value of the surrounding properties.

S. Hurst agreed. T. Morgan felt that with the upgrading of the buildings that it would improve the area. All members agreed.

5. The zoning restriction as applies does interfere with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.

T. Kinnon felt that the water learning facility was unique and coincided with the fact that this property was already developed in a non-conforming way. All members agreed.

6. There is not a fair and substantial relationship between the general purposed of the Zoning Ordinance and the specific restrictions on the property.

P. Monziona felt that this was not much area for a non public educational use entailing water studies off the use of recreation allowed use within this zoning. All board members agreed.

7. The variance will not injure the public or private rights of others.

All board members agreed.

Based on the above analysis, special conditions do not exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hard ship. All Board members agreed.

MOTION:

T. Morgan motioned to approve Case #Z09-09 with the following conditions:

- 1. That all required federal , state and local permits be obtained.**
- 2. That all no parking occur within the town's ROW and no traffic over six tons GVW be allowed on the road**
- 3. That all Life Safety codes be met and implemented.**
- 4. That the proposal is subject to Planning Board site plan review and approval.**
- 5. That all buildings remain within their existing footprints as depicted on the plan. Any expansion of the footprint would require additional review by the ZBA and Planning Board.**
- 6. Any waivers obtained with this application do not carry forward to any future reviews b this board or the Planning Board**
- 7. This variance is expressly given for the purpose of establishing a non-profit education institution.**
- 8. Abutter's dedeed right-of-way access to be duly recognized.**

P. Monziona seconded the motion. The motion passed by unanimous vote. (SH, PM, TM, TK)

VII. NEW APPLICATIONS

Case # Z09-10

Map 34; Lot 33

Special Exception

Catherine & Matthew Bell

75 Mount Major Highway

Application submitted by Roger Sample d/b/a Building Maintenance Service on held of applicants Catherine & Matthew Bell to request a Special Exception from Article 33; Section 320 b2c & A4 to allow for the expansion of a non-conforming structure. This parcel is located within the Residential zone.

T. Morgan stated that unless there was a very thorough oral presentation that there was not enough information in the application for the Board to make an informed decision. He asked S. Penney if she felt the application was complete. She said it met the very minimum but agreed it would require a thorough oral presentation. T. Kinnon felt that at least an engineers' plot structure should be presented with the case and an architect's drawing showing the existing structures should be presented. There was discussion regarding the department heads' reviews/concerns. T. Morgan stated that the approval of this case could cause future jeopardy with the lacking information at this time. There was discussion of the project and it was noted that the building was already non-conforming. The Board discussed the information in the application and it was felt that an augmented presentation would have a better chance of approval, especially after a DES permit is secured and an engineered plot plan.

MOTION:

S. Hurst motioned to continue Case # Z09-10 for the June 4, 2009 meeting and P. Monziona seconded the motion. The motion passed by unanimous vote. (SH, TK, TM, PM)

VIII. APPROVAL OF MINUTES

The minutes were tabled for the next meeting due to the late hour.

IX. OLD BUSINESS

S. Penney reminded the Board of the upcoming conference OEP Land Use on Saturday May 2nd. Reservations are due April 22nd.

X. NEW BUSINESS

MOTIONS:

T. Morgan motioned to nominate Paul Monziona as the Chair of the ZBA and T. Kinnon seconded the motion. The motion passed by unanimous vote.

T. Kinnon motioned to nominate Steve Hurst as the Vice Chair of the ZBA and P. Monziona seconded the motion. The motion passed by unanimous vote.

Tim Kinnon remains as Clerk

XI. CORRESPONDENCE

The Board reviewed a new House Bill on ZBA hardship criteria that has been approved and is going to Senate.

It was decided by the Board that a workshop date of May 14 or 21 would be a good date to meet with the town's attorney and the Planning Board and Conservation Commission.

XII. ADJOURNMENT

MOTION:

P. Monziona motioned to adjourn and T. Kinnon seconded the motion. The motion passed by unanimous vote. (PM, TK, TM, SH)

The meeting adjourned at 10:03 PM.

Respectfully Submitted,

Krista Argiropolis
Recorder