

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MINUTES - APPROVED
April 5, 2018, 6:00 P.M., Alton Town Hall**

CALL TO ORDER

Paul LaRochelle called the meeting to order at 6:06 P.M.

Board Members Present:

Paul LaRochelle, Vice-Chairman
Andrew Levasseur, Member
Paul Monziona, Member
Steve Miller, Alternate
Frank Rich, Alternate

Others Present:

John Dever, III, Code Official

APPOINTMENT OF ALTERNATES

Paul Monziona moved that the Board appoint Steve Miller as an alternate member to serve at tonight's hearing, due to the fact that he was a member of the Board during the duration of the Colchester Properties, LLC, case, and should continue on for continuity. Andrew Levasseur seconded. Motion PASSED by a vote of (3-0-0).

Paul Monziona moved that the Board appoint Frank Rich as a full-voting member to serve at tonight's hearing for all cases. Andrew Levasseur seconded. Motion PASSED by a vote of (3-0-0).

Paul LaRochelle asked Reuben Wentworth, Selectmen's Representative, to swear in Steve Miller as an Alternate. Steve Miller was sworn in, with his term expiring on April 5, 2021, if he so chose to sit during the entire term.

Frank Rich moved that the Board appoint Steve Miller as a full-voting member to serve at tonight's hearing for the Colchester Properties, LLC, case. Paul Monziona seconded. Motion PASSED by a vote of (4-0-0).

DISCUSSION:

Paul LaRochelle explained that the Board wanted to recess for a few minutes with their attorney, Shawn Tanguay, Esq., to discuss procedural matters in regards to Case #Z18-01, Colchester Properties, LLC.

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.

APPROVAL OF AGENDA

Paul Monziona moved to move the Election of Officers "New Business", and accepted the agenda as amended.

Frank Rich seconded. Motion PASSED by a vote of (5-0-0).

CONTINUED FROM MARCH 1, 2018

Case #Z18-01 Francis X. Bruton, III, Esq., Bruton & Berube, PLLC, Agent for Colchester Properties, LLC	21 Silver Cascade Way Map 39 Lot 11	Administrative Appeal Lakeshore Residential (LR)
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The vice-chairman read the public notice for the record.

Francis X. Bruton, III, Esq., stated that James J. Sessler, Esq., had an assented to motion for the Board. James J. Sessler, Esq., stated that during the brief recess, both he and Francis X. Bruton, III, Esq., agreed that the case should be continued to May 3, 2018, because a full Board was not present, and the Board members who were absent had heard the original hearing. James J. Sessler, Esq., asked the Board to make a diligent effort for a full Board to be present at the May 3, 2018, meeting. He understood that emergencies happened, but if a member knew in advance that they could not attend, to inform him prior to the meeting. Paul Monziona noted that Tim Morgan had knee surgery and Lou LaCourse had a personal matter that he needed to tend to.

Francis X. Bruton, III, Esq., confirmed with the Board that since the case was continued to a date certain that abutters did not need to be notified again; Paul LaRochelle stated, that was correct.

Paul Monziona moved to continue Case #Z18-01 upon an assented to motion between the applicant and the Town, to the next regularly scheduled hearing on May 3, 2018, at 6:00 P.M.

Frank Rich seconded. Motion PASSED by a vote of (5-0-0).

DISCUSSION:

Steve Miller wanted the Board to know that it had been an honor to serve on the ZBA over the last few years. He stated that this Board was the most professional, well qualified, Zoning Board that he had ever had the pleasure to experience. He thanked the Board members for assisting him when he first sat on the Board, and asked if they would do the same to the new member, Andrew Levasseur.

Paul Monziona stated that Steve Miller would be in attendance at the May 3, 2018, meeting as an alternate, and the Board anticipated that both Tim Morgan and Lou LaCourse would attend also. Steve Miller stated that he would see the case through to the end.

Steve Miller excused himself from the meeting and left after this discussion; he was only here to deliberate on Colchester Properties, LLC, Case #Z18-01.

NEW APPLICATIONS

Case #Z18-06 Donald R. Jr., & Peggy J. Hughes, Owners	104 Minge Cove Road Map 59 Lot 7-5	Special Exception Lakeshore Residential (LR)
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Present were Donald R., Jr., & Peggy J. Hughes, owners, and Wayne Childers of Childers Design Build & Remodeling.

The vice-chairman read the public notice for the record.

**Paul Monzione moved to accept application #Z18-06 as complete.
Frank Rich seconded. Motion PASSED by a vote of (4-0-0).**

Donald R. Hughes, Jr., stated that he and his wife owned the undeveloped property, which was located in the Lakeshore Residential district. He wanted to build a 28' x 30' single-story private garage as the primary building. He thought that all of the information he provided to the Board would be sufficient for them to grant a Special Exception, according to the seven requirements.

Paul Monzione pointed out that the location of the structure and the height of the garage complied with the required setbacks and height requirement. He asked if there was any plumbing or heating going to the garage. Donald R. Hughes, Jr., stated there was no plumbing, but electricity was being installed, and if they needed heat, it would be electric.

Paul LaRochelle asked what the primary use would be. Donald R. Hughes, Jr., stated the proposed structure would be used for personal storage, and was similar in appearance to his neighbor's garage, which was located not too far away from where he was going to build his garage. The door on the front of the garage would be located on the left instead of the right. Paul Monzione asked where the primary lot was for the residence in relation to the lot for the proposed garage. Donald R. Hughes, Jr., stated it was kiddy corner across the street about 90 feet up.

Paul Monzione asked if the garage depicted in the photograph was an example of what the finished garage would look like, and if it was the only structure on that lot. Donald R. Hughes, Jr., stated yes. Frank Rich noted that the garage was located near the 10' setback and there was a lot of land out back of the property. He thought that the access road would traverse through the whole lot. Donald R. Hughes, Jr., stated that the road to the garage from the street would extend through the property and access to the lot would not be from the back of the lot.

Frank Rich noted the proposed model for the garage and asked if the sides of the garage had any windows. Donald R. Hughes, Jr., stated yes, there were two windows that would be placed up high. He referred to the contractor's drawing that he provided with his application; it showed where the windows would be located. Paul Monzione stated that one of the photographs submitted with the application depicted where the garage would be located. He also noted that he was looking to see if the proposed garage was similar to the buildings located in the neighborhood.

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

Paul LaRochelle moved the Board onto the worksheet.

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

All Board Members agreed.

Paul LaRochelle stated that the specific site **is** an appropriate location for the use. He stated that the garage was similar to the neighbor's garage, and he believed it was appropriate. Frank Rich stated it appeared to be the same exact appearance as the neighbor's, but it was a bit smaller. He also noted that the applicant had gone through great lengths to make sure his request was appropriate.

All Board Members agreed.

Paul Monzione 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 nothing incompatible about the land use. There was no testimony given in opposition and there were a number of letters from abutters who spoke in favor of the application being granted.

All Board Members agreed.

Andrew Levasseur stated there **is no** valid objection from abutters based on demonstrable fact. Frank Rich stated that based on the lack of testimony from abutters in favor or against verbally, the applicant had taken the time to inform his neighbors of his intentions and there was no opposition from any of them.

All Board Members agreed.

Paul LaRochelle 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. Paul Monzione agreed that the structure would in no way impede or adversely affect pedestrian or vehicular traffic. He stated that the applicant included photographs of the sight lines both east and west coming out of the driveway and it was clear that there was sufficient sight line on that road for vehicles going in or out of that garage. Andrew Levasseur agreed that the garage would not cause any harm towards pedestrians or vehicular traffic.

All Board Members agreed.

Paul Monzione 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 applicant had represented that while electricity would be provided, plumbing would not be. The electricity would serve the structure possibly for heat, along with typical uses.

All Board Members agreed.

Andrew Levasseur stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated that the garage did not have a need for sewage disposal or a water supply; therefore, it complied.

All Board Members agreed.

Frank Rich stated that the proposed use or structure **is** consistent with the spirit of the ordinance, and the intent of the Master Plan. He commended the applicant for being up front to make sure that everything was properly handled, but most importantly, being neighborly by keeping them informed. Paul Monzione stated that the ordinance permitted this proposal by Special Exception and the criteria had been met.

All Board Members agreed.

**Frank Rich moved to grant the Special Exception for Case #Z18-06.
Andrew Levasseur seconded. Motion PASSED by a vote of (4-0-0).**

Case #Z18-07 Charles P., III & Marie G. Frank, Qualified Personal Residence Trust/Charles P., III & Marie G. Frank, Owners	12 Temple Drive Map 53 Lot 5	Variance Lakeshore Residential (LR)
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Present were Charles P., III, & Marie G. Frank, Qualified Personal Residence Trust, owners.

The vice-chairman read the public notice for the record.

Andrew Levasseur moved to accept application #Z18-07 as complete.
Paul Monziona seconded. Motion PASSED by a vote of (4-0-0).

Charles P. III and Marie G. Frank came to the table. Charles P. Frank, III, stated that he and his wife owned the property on 12 Temple Drive. There were two (2) houses currently on the lot. When they first bought the property in December of 2000, the first house on the property was gutted and remodeled from the inside out. The applicants lived in the second house on the lot, and were in the process of remodeling that house from the inside out. They had applied for the appropriate building and utility permits. The house consisted of two-bedrooms, one bathroom and a kitchen, and they planned to keep the same amount of rooms. Their proposal was to construct a 10' x 59' deck, which was the length of the house. One of the pictures submitted with the application included a picture of the house with a superimposed deck so the Board could see what it would look like. The proposed deck had the same look as the deck on their other house and would be built with the same materials, white plastic coated railings and the decking would be built with Azek materials. The house as it existed encroached the 30' setback from the shoreline; they applied to the State and they received approval from the State to build. Charles P. Frank, III, stated that their neighbor's deck was similar to what they were proposing and they were in agreement with what they wanted to do.

Paul LaRochelle noted that a permeable walkway was proposed to be put in, but was not near the driveway. Charles P. Frank, III, stated that there was a hot top driveway that went down close to the lake, but the State required him to remove it. By removing the hot top, it cancelled the effect of the frontage as being a non-permeable surface; instead, installing a permeable surface. Paul LaRochelle asked if anything was proposed for underneath the deck area. Charles P. Frank, III, stated, no, they were keeping the plantings and grass that were currently there now. He thought that the improvements would increase the value of their home and there was no negative impact on their neighbors.

Paul Monziona noted that the first house had first and second floor decks and asked the applicants if that was what they were planning on doing with the second house. Charles P. Frank, III, stated, no, just the one deck. He stated that he wanted the houses to look similar in appearance. On the outside of the house under the deck, the applicants planned to put some cultured stone on the house. Paul Monziona noted that in the staff review, the deck would encroach a maximum of 6.6' into the 30' shoreline setback with an encroachment tapering down to one foot at the southern end. He stated that the house was not currently encroaching into the 30' setback. John Dever, III, stated that Charles P. Frank, III, misspoke earlier and referred to a 30' setback and he should have referred to a 50' setback, which was what the State required. Paul Monziona pointed out that the Town had a 30' setback requirement, but the State had a 50' requirement, and there really was not going to be any structure impeding upon the 30' setback other than the columns for the deck. He then asked what they would look like. Charles P. Frank, III, stated that the deck called for footings. He stated that he would install the new type of footing, Big Foot Footing Forms. He also stated that there were six (6) columns because the length of the deck would be 59'. Frank Rich

noted that under the deck there were windows on the house and asked if they were going to stay in place. Charles P. Frank, III, stated that he might install a door there in order to have an egress from the basement. He stated that on the side of the house there was an existing over-head door near the hot-topped driveway that was used to access storage, which he planned on removing and replacing it with a set of barn doors.

Paul LaRochelle asked Charles P. Frank, III, what he thought his hardship was. Charles P. Frank, III, stated that he had a house that he was putting money into and thought he should be able to walk out onto a deck on the main floor to enjoy the lake view. He thought that the addition of the deck would complement the neighborhood.

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

Paul LaRochelle moved the Board onto the worksheet.

Frank Rich stated that the variance **will not** be contrary to the public interest. He stated that no one was present from the public, nor did the Board receive any commentary in writing from any abutters, and since they owned the home right next to them, it seemed to not be contrary to the public interest. Paul Monziona thought that in this particular case, even though there was an overhang within the 30' setback, it was not a structure and was not going on the ground other than the footings. All Board Members agreed.

Paul LaRochelle stated that 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. He stated that it was lakefront property, and the applicants should be able to take full advantage of the beautiful view of the lake. They also did upgrades to bring the building up to code, and this proposal was in harmony with the Zoning Ordinance. Paul Monziona thought that it was a minor encroachment into the setback involving the footings/columns and overhang of the deck, and this ordinance was designed to prevent something far more substantial than this proposal. Frank Rich thought it was not only in harmony, but also in harmony with the applicant's other home on the property. He also thought the intent of the Master Plan was to help residents upgrade their structures that were conducive to the property so that the families on the lake could enjoy it. All Board Members agreed.

Paul Monziona stated that by granting the Variance, substantial justice **will** be done. He stated that substantial justice would be done and noted his previous reasons he made on the above criteria. All Board Members agreed.

Andrew Levasseur stated that the request **will** not diminish the value of the surrounding properties. He stated that from all the evidence given, it seemed like the deck would be in great addition. All Board Members agreed.

Frank Rich stated that for purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (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;
- (ii) The proposed use **is** a reasonable one.

He stated that considering the fact that the encroachment was only going to be 6.6' beyond the setback, and that the State approved the permit, which was actually more stringent, led him to believe that it was a

reasonable use. Paul Monzione thought that the ordinance was designed to prevent proposals that were far more intrusive in encroaching into the setback on the lake than this proposal was.

All Board Members agreed.

Paul Monzione moved to grant the Variance for Case #Z18-07.

Frank Rich seconded. Motion PASSED by a vote of (4-0-0).

OTHER BUSINESS

1. Previous Business: Election of Officers of the Board

Paul LaRochelle thought that elections should take place at the next regularly scheduled meeting because two of the members were absent.

Paul Monzione moved to continue the Election of Officers to the next regularly scheduled meeting on May 3, 2018.

Andrew Levasseur seconded. Motion PASSED by a vote of (4-0-0).

2. New Business:

Paul Monzione suggested that in preparation of the May 3, 2018, meeting, that all members make sure they read the previous minutes from the Colchester Properties, LLC, Case #Z18-01. He also thought that whoever was Chairman at the next meeting should invite each side, the Town and the applicant, an opportunity to encapsulate in a five (5) minute timeframe, the principal points they made during their presentations. By May, it would have been 4 months since the initial presentation and trying to remember all of the facts may be difficult. Frank Rich wanted to clarify what role the ZBA had in this case, and mentioned that they would be voting on the appeal of what the Selectmen decided, which the applicant felt an involuntary merger did take place, and they would be the decision makers on whether or not a merger did in fact take place, and not whether or not the Selectmen were correct.

3. Approval of Meeting Minutes: February 2, 2018, and March 1, 2018

Paul Monzione moved to continue the approval of the February 2, 2018, minutes to the next regularly scheduled meeting on May 3, 2018, because two of the members were absent.

Frank Rich seconded. Motion PASSED by a vote of (4-0-0).

Paul Monzione moved to continue the approval of the March 1, 2018, minutes to the next regularly scheduled meeting on May 3, 2018, because two of the members were absent.

Frank Rich seconded. Motion PASSED by a vote of (4-0-0).

4. Correspondence: None.

ADJOURNMENT

At 7:12 P.M., Paul Monzione moved to adjourn.

Paul LaRochelle seconded. Motion PASSED by a vote of (4-0-0).

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as presented: May 3, 2018