

Approved by the Board on May 11, 2006

**Call to order at 7:04 p.m.**

Board Members present: Tim Kinnon, Angela Bystrack, Marcella Perry-Chairman, Timothy Morgan,  
Others Present: Kathy Menici-Town Planner, Monica Jerkins-Assistant to the Planner, and  
Carolyn Schaeffner-Recording Secretary

**Reading of the Statement of the Appeal Process** by Chairman Perry

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 this hearing is not to gage 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 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.

**Appointment of Alternates** None to appoint.

**Approval of Minutes:** March 2, 2006

Proposed changes

Question on Page 3, third last sentence, "town vote" question regarding demolition and also on Page 4, asking for clarification on "town vote". The Town Planner clarified this question.

Page 3, A. Bystrack stated she asked about "removal" of existing septic, Remove "rebuilt".

**Motion** by A. Bystrack to approve minutes as corrected. Second by T. Kinnon. No discussion.

T. Morgan refrained. Vote unanimous.

**Approval of Agenda:**

Changes: Case Z05-33, Case Z05-34, Case Z05-31 and Case Z05-32, April 25 new meeting date to present these cases

**Case#Z05-33**

**Map14 Lot 21**

**Use Variance**

**New England Nominee Trust**

**486 East Side Dr. (NH 28A)**

David J. Fenton Jr. Trustee

Use Variance from Article 300, Section 301 and Article 200, Section 270, to construct a telecommunication tower outside the specified Telecommunication Overlay District. The property is located in the Lakeshore Residential Zone. Continued from the March 13, 2006 hearing.

**Motion** by M. Perry to continue Case Z05-33 to April 25, 2006 at 6:30 p.m. Second by T. Kinnon. No discussion. Vote unanimous.

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**Case#Z05-34**    **Map14 Lot 21**    **Area Variance**  
**New England Nominee Trust**    **486 East Side Dr. (NH 28A)**

David J. Fenton Jr. Trustee

Area Variance from Article 200, Section 228 to construct a telecommunication tower 120' in height. The property is located in the Lakeshore Residential Zone. Continued from the March 13, 2006 hearing.

**Motion** by M. Perry to continue Case Z05-34 to April 25, 2006 at 6:30 p.m. Second by T. Kinnon. No discussion. Vote unanimous.

**Case#Z05-31**    **Map19 Lot 8-2**    **Use Variance**  
**Robert's Knoll Campground, LLC**    **1439 Wolfeboro Highway (NH 28)**

Use Variance from Article 300, Section 301 and Article 200, Section 270, to construct a telecommunication tower outside the specified Telecommunications Overlay District. The property is located in the Rural Zone. Continued from the March 13, 2006 hearing.

**Motion** by M. Perry to continued Case Z05-31 to April 25, 2006 at 6:30 p.m. Second by T. Kinnon. No discussion. Vote unanimous.

**Case#Z05-32**    **Map19 Lot 8-2**    **Area Variance**  
**Robert's Knoll Campground, LLC**    **1439 Wolfeboro Highway (NH 28)**

Area Variance from Article 200, Section 228 to construct a telecommunication tower 120' in height. The property is located in the Rural Zone. Continued from the March 13, 2006 hearing.

**Motion** by M. Perry to continue Case Z05-32 to April 25, 2006 at 6:30 p.m. Second by T. Kinnon. No discussion. Vote Unanimous.

**Case Z06-12**    **Map 36 Lot 28**    **Appeal of Administrative Decision**  
**Brandt Development Co of NH, LLC**    **167-173 Mt. Major Highway (NH Rte. 11)**

Application submitted by Henry Brandt to request an Administrative Appeal from the Notice of Decision issued regarding case P05-77 by the Planning Board on February 28, 2006 (continued from February 21, 2006) denying a subdivision application for condo conversion, citing a violation of Article 300, Section 327 A.2, Setback Requirements of the 2006 Town of Alton Zoning Ordinance. The property is located in the Residential Commercial Zone.

William Tanguay, Attorney and Hank Brandt are present for this case.

**Motion** by T. Morgan to accept Case Z06-12. Second by T. Kinnon. No Discussion. Vote unanimous.

The Town Planner informed the Board on the history of this case.

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**Motion** by M. Perry to continue Case Z06-12 pending the outcome of the appeal on the driveway. Second by T. Kinnon. No discussion. Vote unanimous.

**Case Z06-13**    **Map 36 Lot 28**    **Appeal of Administrative Decision**  
**Brandt Development Co of NH, LLC**    **167-173 Mt. Major Highway (NH Rte. 11)**

Application submitted by Henry Brandt to request an Administrative Appeal from an issue raised during the Planning Board process in hearing case P05-77. The applicant appeals the Planning Board's application of the standards of Section 329:B – New Construction for Condominium Conveyance.

The Town Planner informed the Board of the history of the issue on the case.

**Motion** by T. Kinnon to accept the application of Case Z06-13. Second by M. Perry. No discussion. Vote unanimous.

**Motion** by M. Perry to continue Case Z06-13 pending the outcome of the appeal on the driveway. Second by T. Morgan. Vote Unanimous.

**Case Z06-14**    **Map 36 Lot 28**    **Special Exception**  
**Brandt Development Co of NH, LLC**    **167-173 Mt. Major Highway (NH Rte. 11)**

Application submitted by Henry Brandt to request a Special Exception from Town of Alton Zoning Ordinance 2006, Article 300, Section 320, Paragraph A:3 – Non Conforming Uses to allow a change in use from seasonal rental cabins to non-seasonal owner occupied homes.

The Town Planner informed the Board there were waivers required although they were not requested by applicant. Section 7.2.17 Utility poles, Section 7.2.33 Wetlands (on adjacent parcel).

Discussion on reason for utility poles on plans and numbers on the poles

**Motion** by T. Morgan to accept the application and grant the waivers for Case Z06-15. Second by A. Bystrack. No Discussion. Vote Unanimous.

**Motion** by T. Kinnon to continue Case Z06-14 pending the outcome of the appeal on the driveway. Second by T. Morgan. No Discussion. Vote unanimous.

**Motion** by M. Perry to discuss the request for the waiver of fees when case comes before the Board again. Second by T. Kinnon. No Discussion. Vote unanimous.

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**Case Z06-09**

**Map 42 Lot 12**

**Variance**

**Greg and Deborah Vickowski**

**9 Mattleman Lane**

Application submitted by Varney Engineering, on behalf of Greg and Deborah Vickowski, for Variance from Town of Alton Zoning Ordinance 2005, Article 300, Section 370, -- Shoreland Protection Overlay District, Subsection 8.0, Paragraph G [Town of Alton Zoning Ordinance, Article 600, Section 601, Subsection H, Paragraph 7] to allow construction that would cover more than 20% of the lot. The property is located at 9 Mattleman Lane and is located within the Lake Shore Residential Zone. Continued per request of the applicant from the March 2, 2006 hearing.

Present for this case: Tom Varney, Engineer, Greg Grigsby and George Pelletieri

G. Varney gave the history of this case. Upgrade the existing property by tearing down the present cottage and replacing it with a new one. The existing structure is located close to the lake (about 14 ft) and is accessed by a long set of steep stairs. Parking area is held up by a retaining wall of railroad timbers. The driveway of the parking lot from Treetop Lane is steep and storm water runs down a paved sluiceway to the lake. The proposed new cottage, garage, driveway and parking area are designed to better fit the landscaping and provide better accessibility. The house is to be moved back from the lake in conformance with the Shoreland Protection Act in the Alton Zoning Regulations and to better align with the neighboring cottages. The existing run-off sluiceway is to be moved and storm water run-off is to be contained in the landscape design. The driveway is to be redesigned to eliminate the present parking area which will have a lesser grade. A new septic system has been designed and approved by the Town of Alton and the State of New Hampshire and will be installed this year. The applicants have hired an engineer, architect, and a landscape architect to design this project. Erosion control is a top priority for construction and the final landscape. The objective of this plan is to improve the property and carefully construct the building and landscape so that the lake is protected and the appearance and natural function of the landscape is maintained.

General discussion on dimension measurements.

K. Menici informed when the Building Inspector and she looked at this application they noted that there are a number of impervious surfaces that are not included in the calculations. They further noted that there was no dimensional information provided on the application to allow staff to verify the impervious area calculations. When the area was scaled out identified on the plat as proposed cottage, the Building Inspector came up with 1900 square feet and it is shown on the chart at 1295 sq feet, therefore the accuracy could not be verified.

Greg Grigsby noted the deck and garage areas have been separated out from the house footprint. The house scales out to 1295 square feet, mud room 130 square feet, screened porch 253 square feet and garage.

**Motion** by T. Morgan to accept application for Case Z06-09. Second by M. Perry. Discussion: to have additional information provided at the following meeting. Ask for dimension measurements needed to make calculations more specific. T. Morgan added to his motion to see engineer survey certifying the

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accuracy the statement of lot coverage and dimensional information provided to allow the verification of the statement. Added statement seconded by M. Perry. Vote unanimous.

Continued discussion or architectural drawing and its accuracy to scale.

G. Pelletiere noted he will provide architectural drawings.

Open up to public in favor or the application.  
None in none seen or heard.

Open to the public in opposition of the application.

Warren Hartwell abutter on the south, shared concern for run-off on the lake, concern for tree cutting on parcel.

T. Kinnon responded that the DES letter of approval is based on conditions of a landscape design that the applicant submitted and if they remove more trees than stated they would loose their approval from DES.

Jim Bajek of 17 Mattleman Lane shared concerns earlier version of plans showed direct impact of review driveway physically impacting his property. Noted he has been informed that this has been revised and want to make sure this is correct and what is in front of the Board. Concern for a large boulder and oak tree (1 foot from property line), concern for storm drainage, existing situation is bad. Asked if revised drainage is mandatory.

Noted from M. Perry this is part of the approved DES approval.

Bajek would like old sluiceway removed from his property. Also expressed concern for tree cutting.

Tim Chabot lives across the street expressed same concern as Mr. Hartwell regarding tree cutting.

Lisa Hartwell neighbor to T. Chabot concern for tree cutting and run-off. If construction is approved asked if barriers would be put up. Asked the Board to consider the beauty of the property .

Closed public session.

Asked for rebuttal from applicant representatives.

T. Varney noted the landscape architect and architect have been working many hours on the property in replacing this house and working on erosion control and especially to improve the conditions of the lot. They will be putting a State approved septic system in and moving the house back from the lake to make it less non-conforming. Also installing an engineered system of drainage where there currently is none.

K. Menici noted the need of a revised septic design approval.

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Reopen to the public. None seen or heard. Closed public session.

**Motion** by T. Kinnon to continue Case Z06-09 until the next regular meeting of the ZBA. Second by A. Bystrack. Discussion by T. Morgan that he would like to add conditions. 1. That the applicant address the issues that were conditions of acceptance and 2. at the continued meeting the applicant address the issues of hardship for the approval of a variance. T. Kinnon so moved as amended. Second by A. Bystrack the amended motion. Vote unanimous.

**Case Z06-10**

**Map 22 Lot 31**

**Special Exception**

**Salvatore and Carol Santucci**

**24 O'Neil Road**

Application submitted by Varney Engineering, on behalf of Salvatore and Carol Santucci, for Special Exception from Town of Alton Zoning Ordinance 2005, Article 200, Section 220, -- Nonconforming Uses, Paragraph B.2(c) [Town of Alton Zoning Ordinance 2006, Article 300, Section 320, Paragraph B.2(c)] to allow a second story and a basement as well as an addition of a roof over an existing deck to an existing cottage. The property is located at 24 O'Neil Road and is within the Rural Zone. Continued per the request of the applicant from the March 2, 2006 hearing.

M. Jerkins noted there was a waiver of Section 7.2.11 for Certification. They are requesting to not have a certified surveyors plan but would have a prior survey from 2005 of the site but not the particular plan

A. Bystrack noted to the Board the applicants are related to friends of her family. Informed that she feels she can act as an impartial judge.

**Motion** by T. Morgan to accept the application for Case Z06-10 and grant the waiver. Second by T. Kinnon. No Discussion. Vote unanimous.

K. Menici noted that one of the sheets distributed to the Board is entitled Plan of Land and that is where the surveyors signature and stamp is located.

M. Jerkins read the Planners Report. Applicant proposes to add second story and a basement to the existing cottage. The existing sill elevation is 96.2 ft and would remain unchanged as proposed. The proposed slab elevation is 87.4 ft and the existing peek elevation is 110.9. The proposed peek elevation is 119.2.

Present for this case: Tom Varney, Engineer and Sal Santucci owner/applicant.

T. Varney reported this property is on Half Moon lake and planning to add a second story and a basement to the existing cottage that was built in 1950. The new structure will remain in the same footprint. The existing foundation will remain but the interior ground level will be dug out providing conventional basement and the existing porch will have a new roof provided over it. There is a new septic design. The landscape contour, retaining wall and driveway will remain as is. Moving the cottage out of the 30 ft setback and 10ft setback area would be difficult due to the steepness of the lot. This is a small lot and the

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cottage is existing with 5-6 ft. extending over the 30 ft setback from the lake which is the issue of concern. A part of the porch is within the 10 ft setback is another concern. The walls have been built for the foundation but the dirt was not removed and this will be done with this project. The addition of the second floor will change the exterior appearance of the cottage. This is shown on the plans. The land will stay the same. If the building were to be moved back the entire foundation would have to be re-done with a lot of disturbance of the land.

T. Morgan asked about the porch composition.

S. Santucci informed it was pressured treated open slat.

T. Varney noted the septic design approved last week.

T. Kinnon asked about the well.

S. Santucci informed it is a dug well and proposed new well in different location.

M. Perry asked about the distance between retaining walls.

T. Varney informed 25 feet (badminton court).

Open up to public in favor  
None seen or heard.

Open up to public in opposition  
None seen or heard.

Public session closed.

The Board went into deliberations.

1. A plat has been accepted by the Planner in accordance with Town of Alton Zoning Ordinance Section 420.b and a recommendation has been made.

Comment by T. Kinnon that it is nice to have a survey and engineered site plan with adequate information provided.

All agree.

2. The specific site is appropriate location for the use being that the use is not changing, single family dwelling, residential and will continue as such.

No Comments.

All agree.

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

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uses. No one spoke against or for the property values going down and it certainly will enhance this property value and the area around the neighborhood.

No Comments.

All agree.

4. There is no valid objection from abutters based on demonstrable fact. There were no abutters that were present.

No Comments.

All agree.

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. The existing site is not going to change in that respect and appears to be working as it is now.

No Comments.

All agree.

6. Adequate and appropriate facilities and utilities will be provided to insure proper operation of the proposed use of structure. Noted they will all improve.

No Comments.

All agree.

7. There is adequate area for safe and sanitary sewage disposal and water. Noted they are proposed a new septic system and water supply with approval.

No Comments.

All agree.

8. The Proposed use or structure is consistent with the spirit of this Ordinance and the intent of the Master Plan. Noted it is an improvement to an existing cottage and certainly within the spirit of the Ordinance.

No Comment.

All agree.

**Motion** by T. Kinnon to approve Case Z06-10 as submitted T. Morgan. No Discussion Vote Unanimous.

8:45 – recess for 10 minutes.

9:56 – resumed meeting

**Case Z06-08**

**Map 60 Lot 11**

**Variance**

**David Herrick**

**172 Minge Cove Road**

Application submitted by Varney Engineering, on behalf of David Herrick, for Variance from the Town of Alton Zoning Ordinance 2005, Article 200, Section 227, -- Setback Requirements, Paragraph A.1 [Town of Alton Zoning Ordinance 2006, Article 300, Section 327, Paragraph A.1], to allow the construction of a building located partially within the setback. The property is located at 172 Minge Cove Road and is



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located in the Lake Shore Residential Zone. Continued from the March 2, 2006 hearing.  
Application was accepted.

Present for this case: Tom Varney-Engineer, David Herrick-applicant and Jim Gamble-Contractor.

K. Menici noted her comments that the applicant proposes to demolish existing structure with a new house and is seeking a variance to allow the construction of a portion of the new house and the entirety of a new porch within the Lakeshore setback. The current porch extends 8 ft in set setback. In the application the applicant claims that the porch upholds the grandfather status of the existing buildings, however, when a non-conforming structure is demolished it does lose its grandfather status and any new structure should be as conforming to the Zoning Ordinance as any special site conditions would allow.

T. Kinnon informed he did some brief research and would like to present this to the Board. Section 320.b.3 allows for the repair of a non conforming structure. Prior to 2003 town ballot there is a requirement that any repair beyond 75% of the structure was considered total demolition and as such would require a variance. The Town elected in 2003 to remove that requirement so that a structure could be completely repaired without having to require a variance. There were some cases after that where people did just that; demolish to repair a structure.

There was a question on repair or replace.

K. Menici stated the Code Officer's interpretation of the Ordinance is that if a structure is demolished in its entirety the new structure in its place should be as conforming to the Ordinance as possible

T. Kinnon does not agree and does not see that in the Ordinance.

M. Perry feels the need for legal interpretation.

T. Kinnon stated there is nothing that talks about demolition in our Zoning Ordinance.

K. Menici noted the packets contain a statement from Code Officer and his comments are when removing a structure, grandfather is non-existent and the new building has to meet setbacks.

T. Kinnon read his report and does not see anything in the Ordinance to substantiate this.

T. Varney informed they are keeping entire porch with no demolition and joining it with the new building and this a change from the last meeting.

K. Menici referred to the Zoning Ordinance Section 320, Non Conforming Uses, Page 15, under para B. Non Conforming Structure, sub paragraph 2, sub paragraph b, Expansion of the footprint and asked if this is what Mr. Varney is proposing now.

T. Varney confirmed they would be complying with this.

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K. Menici would like to recommend to meeting with the Code Officer and get his opinion.

**Motion** by M. Perry to continue Case Z06-11 to the next regular meeting of the ZBA and have the Planner check with Code Officer. If they determine the variance is not necessary the Board will act on the next meeting. Second by T. Kinnon. No discussion. Vote Unanimous.

**Case Z06-05**

**Map 18 Lot 39-8**

**Special Exception**

**June A. Rich Rev Trust**

**38 Tranquility Lane**

Application submitted by Beckwith Builders, on behalf of June A. Rich Rev Trust, to request a Special Exception from Town of Alton Zoning Ordinance 2006, Article 300, Section 328 – Height Restrictions, to allow for a portion of a cupola and chimneys to exceed the 35’ height restriction. The property is located within the Lakeshore Residential Zone.

T. Morgan recused himself.

Present for this case: James Bartlett – Attorney, Francis Rich – Owner, Ben Long – Beckwith Builders, and Les Beckwith – owner of Beckwith Builders.

Planner noted there were many waivers for this application.

The applicant informed they are going to wait until the next meeting due to the lack of members of the ZBA Board present.

**Motion** by M. Perry to continue Case Z06-05 to continue to the next regular meeting of the ZBA. Second by A. Bystrack. No discussion. Vote unanimous.

**Case Z06-11**

**Map 51 Lot 34**

**Variance**

**Kathleen and Mark Dotter**

**4 Loveren Lane (Rte 11-D)**

Application submitted by Kathleen and Mark Dotter to request a Variance from Town of Alton Zoning Ordinance 2006, Article 400, Section 401, -- Permitted Uses - Table of Uses, to allow a home occupation within the Lakeshore Residential Zone.

T. Morgan resumed his place on the Board

Present for this case: Melissa Guldbransen – Attorney, and Kathleen and Mark Dotter owners/applicants.

**Motion** by T. Kinnon to accept the application for case Z06-11. Second by T. Morgan. No discussion. Vote unanimous.

K. Menici reported the applicants are seeking a variance to combine dwelling and business. Specifically professional office in a dwelling in Lakeshore residential.

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M. Guldbransen informed they are applying for variance in residential zone. The Dotter are both private counselors who meet with clients in home on a part time basis. Both are semi retired. They would meet no more than 6 times per week combined. Counseling sessions last no longer than one hour. Client/patient would appear to be no more than a social guest.

Use of property

Kathleen Dotter spoke on practice. Currently office in Wolfeboro and sees teaches psychology at NHTI fulltime. Corrected they are not semi-retired as stated by M. Guldbransen. Works with adults, not severe mental illness. Not seriously impaired

Mark Dotter PhD and sees no more than 2 people per week. He is also a Counselor at a public school.

M. Guldbransen noted all the abutters have been spoken to directly by the applicants.

K. Menici noted the variance runs with the land. Future owners have the benefit of that variance.

M. Guldbransen noted they are looking for narrow variance.

Discussion by all Board members regarding the risks and safety issues of patients and applicants.

M Dotter and K. Dotter noted they extensively screen patients and feels risks and safety are not a factor.

M. Guldbransen noted they are here because this property is in the Lakeshore zone. Currently in the vicinity are three commercial businesses. Table of uses noted bed and breakfast, etc. and noted these would be more impacting than the Dotters' business.

Open to public input in favor  
None seen or heard.

Open to public input opposition  
None seen or heard.  
Closed public hearing.

M. Perry asked for any comments from the Board.

T. Kinnon thinks good use of the property, small limited practice.

A. Bystrack concern that variance runs with property.

K. Menici noted combined dwelling and business allows if the lot were large enough would allow for a separate structure. (Page 32, 9 combined dwelling and business, generic.)

M. Perry concern is the zone it is in and would like to seek legal opinion on making the variance specific.

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**Motion** by T. Kinnon continue Case Z06-11 until such time to meet with legal counsel to define what limitations can be placed on a variance approval and meet at the next regularly scheduled meeting. No discussion. Second by A. Bystrack. Vote unanimous.

**Election of Vice-Chair and Clerk**

Motion by M. Perry for T. Kinnon as Vice Chair. Vote unanimous.

Motion by T. Kinnon to nominate Angela Bystrack to Clerk, Second by M. Perry. Vote unanimous.

**OTHER BUSINESS:**

1. Old Business: Review of application form – no action taken.

Need to vote on calendar - change the submission deadlines beginning with the June meeting. This change moves the submission deadline up one week.

Discussion on meeting with Town Counsel regarding the last case, meet on Tuesday the 25<sup>th</sup> at 5:00 p.m.

**Motion** by M. Perry accept the new Zoning Board schedule of meetings beginning June 1. Schedule to change from that point. Second by T. Kinnon. No discussion. Vote Unanimous

2. New Business - none
3. Correspondence - none.
4. Any other business that comes before the Board. Kathy introduced Jeremy Dube who is interested in being an alternate for the ZBA. Question from T. Kinnon about his own wife being an alternate, and would like to check to see if it would be a conflict of interest.

Discussion on scheduling a work session. Agreed to schedule a work session on May 4, at 6:00 p.m.

Discussion on setting time limits for meeting lengths.

**Motion** by T. Kinnon to adjourn. Second by No discussion. Vote unanimous.

**Adjournment**

Marcella Perry, Chairman

Respectfully submitted,  
Carolyn Schaeffner, Recording Secretary