

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Hearing
June 6, 2013
Approved 7/11/13**

I. CALL TO ORDER

Paul Monziona called the meeting to order at 7:03 p.m.

II. INTRODUCTION OF PLANNING DEPARTMENT AND ZONING BOARD MEMBERS

Paul Monziona, Chair, introduced himself, the Planning Department Representative, and the members of the Zoning Board of Adjustment:

John Dever, Building Inspector and Code Enforcement Officer
Steve Miller, Member
Paul Larochelle, Alternate
C. Loring Carr, Selectmen's Representative

III. APPOINTMENT OF ALTERNATE

S. Miller asked if an ex officio member (C. Loring Carr) could be a full voting member, if the Board were to follow Robert's Rules. P. Monziona answered that there is a specific RSA governing the authority of the Board and how a quorum is established.

S. Miller made a motion to appoint P. Larochelle as a member for this meeting. P. Monziona seconded the motion which passed with two votes in favor, none opposed, and no abstentions.

IV. STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds which the Board must consider when making a determination. The purpose of the hearing is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against an appeal but all facts and opinions based on reasonable assumptions will be considered. In the case of an appeal for a variance, the Board must determine facts bearing upon the five criteria as set forth in the State's Statutes. For a special exception, the Board must ascertain whether each of the standards set forth in the Zoning Ordinance has been or will be met.

V. APPROVAL OF THE AGENDA

The posted agenda shows Tim Kinnon as Chairman; Paul Monziona is the current Chairman.

S. Miller made a motion to approve the agenda as amended. P. Larochelle seconded the motion which passed with 3 votes in favor, none opposed, and no abstentions.

P. Monziona explained that with only three members present, a unanimous vote would be required in order for an application to be approved. He gave each of the applicants an opportunity to continue if they chose to do so; a continuance due to a short Board would not count against the two continuances afforded the applicant as part of the application process.

VI. NEW APPLICATIONS

Case #Z13-7 David A. and June B. Howell	Variance Map 69 Lot 15	25 Perkins Road
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On behalf of David A. and June B. Howell, Wes Whittier of Waters Edge Builders is requesting a variance for Article 300 Section 327 of the Zoning Ordinance. The existing use is a residential 2 bedroom home with septic system. The use will continue as it exists except there will be a new structure on the property removing the existing house from the 30 foot setback with only having 188 sq. ft. of deck projecting into the 30 ft. setback. The property is located in the Rural Zone.

J. Dever read the case into the record.

Wes Whittier of Waters Edge Builders came forward to present. Given the option to continue, Mr. Whittier requested a continuance to the next meeting, which will be July 11, 2013.

S. Miller made a motion to accept the request for continuance for Case #Z13-7 to the July 11, 2013 meeting. P. Larochelle seconded the motion which passed with 3 votes in favor, none opposed, and no abstentions.

Case #Z17-3 was continued to the July 11, 2013 meeting.

Case #Z13-8 Michelle Lee Lang	Variance Map 14 Lot 1-2	232 Jesus Valley Road
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Michelle Lee Lang is requesting a Variance from Article 300 Section 319 of the Zoning Ordinance to permit an accessory apartment larger than 35% of the existing dwelling. Proposed apartment would be 205 square feet over limit for a total of 48%. The property is located in the Rural Zone.

J. Dever read the case into the record.

Michelle Lee Lang came forward to present this case. J. Dever handed out plats that show the location of the structure on the lot. There was a small one included in the application packet; the larger ones are clearer. P. Monziona asked if the applicant could demonstrate the location of the structure on the lot, in regard to setbacks; Ms. Lang answered that she could. Board members reviewed the application for completeness.

S. Miller made a motion to accept the application as complete. P. Larochelle seconded the motion which passed with three votes in favor, none opposed, and no abstentions.

Ms. Lang explained that the goal is to build a garage with an apartment above for her son, but that 35% of the square footage of her home is only 448 sq. ft. She would like a little more room for him; due to an accident, her son is permanently disabled. She would like to have a little more than the 35% because her son needs a bedroom as he is unable to sleep on something like a pullout sofa if they only had space for a living room.

The 48% requested would allow 752 sq. feet of space; this is 204 sq. ft. over the 35% allowed. During staff review, there were no concerns raised by department heads. There is a separate septic system already designed and installed. There is a separate pounded well that is going to be used as a water supply; if this does not work, a line can be run from the main house. The apartment will be insulated and have a window exit; it will be built to meet all current building codes. The apartment will be accessible by a staircase from the inside of the garage as well as by walk-out as well; the garage will be built into a hillside which will allow ground level access, even though this apartment will be located above the garage.

The main house was built in the late 1700's; the small size of homes built at that time lends to the uniqueness of the property in regard to this variance request.

P. Monziona opened the floor to public input in favor of the application.

Sandy Wyatt, an abutter on two of the three sides of Ms. Lang's property, spoke in favor. This is a 17 acre property; they have looked at the proposal and think it would be a really good thing for her son.

There was no public input in opposition to the application. Public input was closed.

WORKSHEET

WORKSHEET

All members agreed that the variance will not be contrary to the public interest. This is something that the Zoning Ordinance talks about; the ability to accommodate something like this. S. Miller commented that Alton should take care of its own.

All members agreed that the request is in harmony with the spirit of the ordinance and the intent of the Master Plan and with the convenience, health, safety, and character of the district within which it is proposed. When you read the preamble to this zoning regulation, it talks about allowing these accessory dwellings; it talks about allowing accessory dwellings, as well as affordable housing.

All members agreed that by granting the variance substantial justice would be done. A disabled individual will be helped, and a home built at the time the main structure was built would be difficult to modify, and that was certainly not the original intent.

All members agreed that the request would not diminish the value of surrounding properties; there has been no evidence that there would be any change in values; there is plenty of land and no objection from abutters.

All members agreed that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area that no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property, and that the proposed use is a reasonable one. In this case, the special condition is that the house was built in the 1700's and has a limitation on the square footage; the 35% condition applies in most cases, but is not reasonable in this case.

P. Monziona read Sub-paragraph (B) for information purposes. If the criterion in Sub-paragraph (A) are not established unnecessary hardship will be deemed to exist only if owing to special conditions of the property that distinguish it from other property in the area, the property can not be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable a reasonable use of it.

S. Miller made a motion to approve the variance in this case. P. Laroche seconded the motion which passed with three votes in favor, none opposed, and no abstentions.

Case #Z13-9 Michel & Vivian Pelletier	Special Exception Map 22 Lot 4	1019 Suncook Valley Road Route 28S
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Michel and Vivian Pelletier are requesting a Special Exception from Article 300 Section 320 2B in order to repair/replace the roof on their cottage by changing the pitch of the roof from a flat roof to a 8/12 pitch. The property is located in the Rural Zone.

J. Dever read the case into the record.

Michael Harmon, son-in-law of the applicants, came forward to present; there is a letter in the file, from the applicant authorizing Mr. Harmon as agent in this case.

S. Miller disclosed that he lives very near the applicant, but is unfamiliar with the case and does not know Mr. Pelletier at all. He does not wish to recuse, nor does the applicant have any issues with his sitting on this case. The application was reviewed for completeness; there is a drawing of the property showing dimensions and proximity to setbacks, and there are photos showing the house itself.

S. Miller made a motion to accept the application for Case #Z13-9 as complete. P. Larochelle seconded the motion which passed with 3 votes in favor, none opposed, and no abstentions.

Mr. Harmon explained that they are simply looking to increase the roof pitch in order to prevent further snow damage. The variance is needed because this is a non-conforming structure due to the fact that the right side of the house is encroaching into the side setback. The roofline is going to go up due to the increase in the roof pitch. The higher ridgeline will still be within the 35 foot requirement; the total increase in height is going to be about 54". The change in roof pitch will not increase the living space or the square footage. The non-conformity will not be increased due to the change in roof pitch. S. Miller asked if the roof pitch would be up to current code. J. Dever explained that there is no code per se, but that code does demand that either greater pitch has to exist, or the roof rafters would have to be heavier to accommodate a heavy snow load.

The total encroachment is 6 ½ feet into the setback. The original structure predates zoning, but since zoning has placed the home within the setbacks, the variance is needed.

Members discussed whether or not the original home as built had a roof that had a correct pitch; P. Larochelle explained that many times a cosmetic line is added on the outside to break up a tall looking wall. Additionally, J. Dever does not have any records that show any prior variances requested for this property. P. Monziona stated that whether the roof had been raised at some time or not, that is irrelevant to this case. S. Miller argued that the condition may have been deliberately created, and then a special exception is being requested to rectify the created problem. P. Larochelle explained that you could tell from the inside if the wall had been opened up to raise the roof.

P. Monziona opened the floor to public input; there was none either for or against the application.

P. Monziona commented on the roof line issue; he is not sure that matters to this application because what makes the building non-conforming is the encroachment in the setback; without that factor, the applicant could be fixing that roof without ever having to come before the ZBA for a Special Exception. It is probably a good thing to fix the roof because the ability to handle the snow load will make the building safer. S. Miller asked if a Special Exception was needed to add the dormer in the first place; P. Monziona explained that if the zoning regulation that said you could not expand a non-conforming structure had been in place, the owner would have needed a special exception due to the proximity to the side setback. At whatever point that roof was made as it is, the owner would have needed a special exception. The current owner wants to improve the roof pitch to make it safer under snow load, and he needs the special exception to make that happen.

WORKSHEET

All members present agreed that a plat has been accepted in accordance with Town of Alton Ordinance 520-B.

All members present agreed that the specific site is appropriate for the use; the use is not changing.

All members present agreed that there is no factual evidence that property values in the district will be reduced due to incompatible uses; there is no incompatible use and there is no evidence that property values will be affected at all.

All members present agreed that there were no valid objections from abutters based on demonstrable fact; there was no testimony from abutters at all.

All members present agreed that there would be no nuisance to pedestrian or vehicle traffic including the location and design of access ways and off street parking; there will be no affect on pedestrians, traffic or parking.

All members present agreed that appropriate and adequate facilities and utilities would be provided to insure proper operation of the structure; changing the roofline will not affect the facilities or utilities.

All members present agreed that there is not adequate area for safe and sanitary sewage disposal and water supply; this is not an issue at all.

All members present agreed that the proposed use of the structure is consistent with the spirit of the ordinance and the intent of the Master Plan; granting this application will improve safety and integrity of the structure.

S. Miller made a motion to approve the Special Exception for Case #Z13-9; P. Larochelle seconded the motion which passed with three votes in favor, none opposed, and no abstentions.

VII. OTHER BUSINESS

A. Previous Business: None

B. New Business: None

C. Loring Carr stated that he is familiar with the property in the previous case; the current roofline is not the original. He asked if there is a file the members review before deciding cases. J. Dever stated that there are no building permits in the file for this property. P. Monziona explained that if a shed dormer had been added to that property in violation of the zoning regulations, there would be a penalty assessed for that, but that this application had been dealt with as it came before the Board. This discussion continued; J. Dever explained the process of estoppels but stated that in order to make a judgment he would have to do that based on the zoning regulations in effect at the time the violation occurred. P. Monziona went on to explain that the only way he could see something of that sort causing the application to be denied would be if the applicant created the non-conformance in violation of the zoning.

S. Miller questioned again whether there is a regulation that specifically states that an ex officio member can not be a voting member. This was discussed at some length; P. Monziona wondered if there would be a conflict due to the fact that the Board of Selectmen issue building permits on Class VI roads, and if a permit is denied, the first recourse is to the ZBA. J. Dever will find and distribute the regulation that governs the appointment, make up, and voting privileges of the Zoning Board and distribute that to the members.

Another home located on 28S was discussed; permission was given to build a second house on a lot with a condition that the original house would be removed. To date, both houses are still on the lot. J. Dever stated that if that was a condition of the ZBA, that condition is still enforceable. Members discussed this further; J. Dever stated that he would have to check the file to see if a Certificate of Occupancy had ever been issued. If it has, and both dwellings are being occupied, they are in violation of the condition of approval.

C. Minutes: March 7, 2013; May 2, 2013; May 16, 2013

S. Miller made a motion to approve the minutes of the March 7, 2013 meeting as presented. P. Larochelle seconded the motion which passed with 2 votes in favor, none opposed, and one abstention (P. Monziona).

P. Monziona made a motion to approve the minutes of the May 2, 2013 meeting as presented. S. Miller seconded the motion which passed with 3 votes in favor, none opposed, and no abstentions.

All pages of the May 16, 2013 meeting minutes show the date March 16, 2013 in the footer.

S. Miller made a motion to approve the minutes of May 16, 2013 as amended. P. Larochele seconded the motion which passed with 2 votes in favor, none opposed, and no abstentions.

D. Correspondence: None.

VIII. ADJOURNMENT

S. Miller made a motion to adjourn. P. Larochele seconded the motion which passed without opposition.

The meeting adjourned at 8:20 p.m.

The next regular ZBA meeting will be held on July 11, 2013, at 7:00 p.m.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session