

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
MINUTES
Public Meeting
July 1, 2010
Approved 8/12/2010**

I. CALL TO ORDER

Paul Monzione, Chairman, called the meeting to order at 7:01 p.m.

II. INTRODUCTION OF PLANNING DEPARTMENT AND BOARD MEMBERS

Paul Monzione, Chair, introduced himself, the Planning Department, and the members of the Zoning Board:
 Stacey Ames, Planning Assistant
 Timothy Kinnon, Vice Chair
 Lou LaCourse, Clerk
 Steve Miller, Member
 E. Loring Carr, Representative from the Board of Selectmen

Timothy Morgan, Member, was not present at this meeting.
 Mr. John Dever, Building Inspector and Code Enforcement Officer, was present at this meeting.

III. APPOINTMENT OF ALTERNATES

There are no alternates to appoint. The Board is short one regular member, but a quorum is present.

IV. STATEMENT OF 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

T. Kinnon made a motion to accept the agenda as presented. L. LaCourse seconded the motion, which passed without opposition.

VI. CONTINUANCES

Case #Z10-01 Lowell and Dorla Hall	Map 34 Lot 33-91	Special Exception 3 Verna Lane
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Application submitted by Roger Sample on behalf of applicants Lowell and Dorla Hall to request a Special Exception from Article 300 Section 320 A-4, B2-A and C, to allow the expansion of a non-conforming structure to include a study and half bath on the 2nd floor. This parcel is located in the Alton Bay Christian Conference Center in the Residential zone.

The case was introduced into the record by S. Ames. This case was continued because Mr. Miller had not had the opportunity to review the Master Plan; that was the one vote that was the deciding vote on this case. He wanted time to do that, so it was continued. All that was really needed for this case was for Mr. Miller to make his vote and either grant, or not, the Special Exception. Chairman Monziona asked if there was anyone present for this case; there was not. P. Monziona acknowledged that and stated that it is on the agenda for the very limited purpose of allowing Member Miller to provide his vote on the one criterion that he abstained on in order to have the opportunity to more familiarize himself with the Master Plan. P. Monziona asked S. Miller if, having done that, he was ready to render his vote. S. Miller replied that he is of the opinion that the request is in conformity with the Master Plan.

P. Monziona recalled that all other criteria in this case had been fulfilled with the exception of the abstention on that one vote. S. Ames confirmed that. Mr. Dever, Alton Code Enforcement Officer, requested that this be conditional upon review of the existing septic system that this cottage is attached to. P. Monziona commented that the matter had been closed to public input and comments, waiting only to get a decision (from S. Miller), but he would take the comment as a reminder because it has been a while since they were in session; it has been several months since they had this case. He will take that as a reminder about that particular issue. Now that the vote has been done, this case is subject to a motion for approval or granting of the application; when the motion is made, if appropriate, it could contain that as a condition.

T. Kinnon is going to abstain from this vote, as he was not present at the original hearing and did not vote on it.

S. Miller made a motion to approve the application for Case Z10-01, conditional on DES approval of the sanitary sewage disposal/septic system. L. LaCourse seconded the motion, which passed with three votes in favor (PM, LL, and SM) and one member abstaining (TK).

Case #Z10-10 Gary and Maureen Wasserman	Map 63 Lot 19	Area Variance and Special Exception 14 Peters Path
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Application submitted by Todd Bernasconi on behalf of applicants Gary and Maureen Wasserman to request a Variance from Article 300 Section 327 and a Special Exception from Article 300 Section 320 B2(a) to allow a spiral staircase on the existing deck to allow access to an upper deck to be constructed. The staircase will be an expansion of the footprint and is within the allowable Shoreland setback. This parcel is located in the Lakeshore Residential zone.

The case was read into the record by S. Ames. S. Ames requested doing Case #Z10-10 and Case #Z10-13 at the same time; it is the same applicant for almost the same thing. Case #Z10-13 is to actually construct the deck that the spiral staircase will lead to. P. Monziona felt that would be appropriate and asked if Case #Z10-13 was also on continuance. They are both continued, so they will be treated at the same time. These two cases were continued because the Board requested setbacks be shown on the plan, which has been submitted.

Todd Bernasconi and Gary Wasserman came to the table to present their cases. Mr. Bernasconi informed the Board that he had asked Mr. Tom Varney re-do the measurements on the setback.

P. Monziona referred to the minutes of the May meeting, noting that the Board had not really arrived at the substance of the presentation as to going through the criteria for the request. They had pointed out their concern that the submissions provided did not really give them a clear understanding of the setbacks so they could see where the structure is in relation to all of those things. They pointed out that they had some particular concerns of late, given that there could be legalities involved and they needed a better depiction. They now have that. He suggested, only since it is on the agenda this way that they address the first case concerning the spiral staircase first, even though the cases are going to overlap. They will be voted on separately.

Todd Bernasconi explained that the spiral staircase will be to access the upper deck above the porch. Coming out onto the existing porch, there will be a 6 foot spiral staircase, which is code, to allow access to the deck above. They can't build in front of the home, so they want to put a deck above the porch. Mr. Wasserman added that the spiral staircase is on a small landing; it doesn't extend the landing that it is resting on. The spiral staircase extends over the edge of the landing; that is where the variance or special exception comes in. Mr. Bernasconi added that Paul Goodman from Watermark had come out to do the site assessment. Mr. Wasserman explained that it doesn't affect any of the ground water or anything underneath because it doesn't sit on the ground; it sits on a landing above the ground.

T. Kinnon asked if the deck to be constructed would be entirely above the existing structure. Mr. Bernasconi answered that the deck would be just above the porch and would actually be set in a little bit to allow the water to go onto the overhang, so it will be a little bit smaller the porch.

P. Monziona asked for the reason for the variance; he asked if it was because the landing for the staircase is going to extend or overhang beyond the footprint of the building. Mr. Bernasconi explained that the post for the spiral staircase will be on the existing landing, but the round part of the spiral staircase will actually come out. It is an existing landing, but it is going to be set off to the right enough that half of the stairway will be over the landing, the post will be on the landing, but where the spiral comes around will actually be out over the ground, but not touch the ground. P. Monziona asked if it encroaches into the setback; Mr. Bernasconi answered that it does. P. Monziona voiced his understanding that, because it is a spiral, the curve of the spiral goes out into the setback. Mr. Bernasconi said that it is not into the 10 foot setback and it's not in the permeable setback because there is a walkway below it that is stone; the site assessment says it does not affect anything. P. Monziona clarified the need for the variance; the building is non-conforming to begin with, and because when the spiral staircase goes out, it goes beyond the footprint of the building, they are expanding a non-conforming building even more simply by adding the spiral staircase. He asked how far it extends with the addition of the staircase. Mr. Bernasconi answered that it is 2'6". P. Monziona asked if it does that all the way up; Mr. Bernasconi confirmed that it does.

S. Miller asked why they decided on a spiral staircase rather than a traditional staircase. Mr. Bernasconi answered that there just isn't enough room; to go with a full staircase they would have to go out 10', and they would be way out of the footprint. The spiral is the smallest stairway they could fit in there. It's tight in there; there is a bathroom back beyond it that jogs.

L. LaCourse asked for clarification of where the staircase would be located. Mr. Bernasconi pointed out on the photos that if you are walking toward the lake, the bathroom jogs out; it is in the first jog. Photos of the proposed site were passed around to the Board. Mr. Wasserman used the photos to show where the staircase will be, and also to show a neighbor's fence and trees. P. Monziona asked if they were into the 10' setback to the abutting property; Mr. Bernasconi answered that they are not, as it is 13'6" to the line.

P. Monziona asked if there were any concerns to this staircase from the Fire Department; there were none.

P. Monziona opened the floor to public input, either in favor or in opposition. There were none.

P. Monziona asked Mr. Dever, the Code Enforcement Officer, if there were any comments regarding this application. He answered that his main concern would be the support of it, and he had already discussed that with the applicant.

Mr. Wasserman stated that he has a letter from an abutter supporting the project; he has submitted that with the data previously submitted. P. Monziona asked if the letter specifically addressed the spiral staircase. Mr. Wasserman answered that it is the abutter on the side where the staircase will be, where the fence is.

Public input was closed at this time.

As none of the members felt a need to deliberate, they went directly into the Variance Worksheet.

1 – T. Kinnon stated that the variance **will not** be contrary to the public interest. This would not have much impact on the public as far as ordinances or the Master Plan are concerned; it is very minor. P. Monziona agreed, for the same reasons. L. LaCourse and S. Miller also agreed.

2 – P. Monziona 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. This is a very minimal, minor change to the structure, and he doesn't see anything that is contrary to the zoning ordinance or the Master Plan, so he would conclude that it is in harmony. L. LaCourse agreed, adding that he believes that because there is no contact with the ground. They are really only encroaching on their own sidewalk. S. Miller agreed, adding that he thinks it will only improve the aesthetics of the community. T. Kinnon also agreed.

3 – L. LaCourse stated that by granting the variance, substantial justice **will** be done. The fact that the neighbor agrees and that it is not very invasive, he thinks makes this a very fair decision. S. Miller and T. Kinnon agreed. P. Monziona also agreed and added that he thinks substantial justice is done because in order to have this staircase, they need to expand beyond the footprint of the building.

4 – S. Miller stated that the request **will not** diminish the value of the surrounding properties. The only abutter that is directly affected has no problem with the staircase. It is a nominal capital improvement he is sure will be aesthetically pleasing. T. Kinnon agreed. P. Monziona also agreed, adding that there is no evidence in the record to indicate otherwise. L. LaCourse also agreed.

5 – T. Kinnon stated that for the purpose of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area. One, there is a fair and substantial relationship existing between the general public purpose of the ordinance provision and the specific application of that provision to the property, and the purpose of the proposed use is a reasonable one. Based on the above analysis, special conditions **do** exist such that the literal enforcement of the zoning ordinance results in unnecessary hardship. P. Monziona agreed, adding that the Special Conditions of the property are that the building is existent, and that it is a non-conforming building. The only way to have a proper stairway is to do the spiral staircase, and it has to extend beyond the footprint. L. LaCourse agreed for the same reasons; without the spiral staircase, it would be very difficult to locate a staircase in a manner that would allow access to the deck without encroaching onto someone else's property and also further on their own. S. Miller agreed, adding that he believes that the use of the spiral staircase is the most efficient way to stay within the setback requirements as much as possible.

P. Monziona noted that if the summary statement is fulfilled, no vote is needed. Four of them agreed on the summary statement, so on this particular variance, no one pointed out any conditions that need to be applied. Because they have all agreed on this last one, the application for the variance for the staircase is granted.

The Board went directly to the Special Exception Worksheet.

1 – P. Monziona stated that a plat **has** been accepted by the Planner in accordance with Alton Zoning Ordinance Section 520B and a recommendation has been made. All members agreed.

2 – L. LaCourse stated that the specific site **is** an appropriate location for the use. S. Miller and T. Kinnon agreed. P. Monziona also agreed for all the reasons that were articulated in the variance.

3 – S. Miller stated that factual evidence **is not found** that the property values in the district will be reduced due to incompatible uses. This is just a nominal capital improvement. All members agreed.

4 – T. Kinnon stated that there **is no** valid objection from abutters based on demonstrable fact. To the contrary, they have a letter supporting the installation of the stairs. All members agreed.

5 – P. Monziona 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 added that this is not even applicable to this staircase. There is nothing about it that will affect these items. All members agreed.

6 – L. LaCourse stated that adequate and appropriate facilities and utilities **will** be provided to insure proper operation of the proposed use or structure. He added that this is also not really applicable, as there is no need for facilities or utilities with a staircase. All members agreed.

7 – S. Miller stated that there **is** adequate area for safe and sanitary sewage disposal and water supply; this is also not applicable. All members agreed.

8 – T. Kinnon stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. The use isn't changing, or even actually being expanded. It is consistent with the area. P. Monziona agreed for the reasons previously articulated with regard to the variance. L. LaCourse and S. Miller agreed.

L. LaCourse made a motion to approve Case #Z10-10 without conditions. S. Miller seconded the motion, which passed with all votes in favor.

Case #Z10-13 Gary Wasserman	Map 63 Lot 19	Special Exception 14 Peters Path
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Application submitted by Todd Bernasconi of TBR Enterprise on behalf of applicants Gary and Molly Wasserman to request a Special Exception from Article 300 Section 320 B2(c) to allow the construction of a deck above the existing porch. This parcel is located in the Lakeshore Residential zone.

P. Monziona read the case into the record.

Mr. Wasserman stated that the porch will be in the exact footprint of the existing building; the staircase will lead up to a deck. The porch has been converted into a regular room; the deck will be on top of that, in the exact footprint of the house. There is no one behind him, so it does not obstruct anybody's views. It does not obstruct the waterside view of the abutters beside them. It does not detract from the neighborhood that has other decks.

Mr. Bernasconi added that the reason for putting it up there is because the house is so close to the water; he had no option for a deck out front because he is within the 50 feet. They could have tried that but they have better access up there and back from the water. P. Monziona asked if the 50' setback from the lake would have prevented anyone building a deck on this structure, at least on the lake side. Mr. Bernasconi answered that it would.

L. LaCourse asked for a photo showing where the deck will be; Mr. Wasserman used photos to indicate the location on the house. These photos have been e-mailed to the Planning Department.

P. Monziona asked if the deck would stay within the height restriction. Mr. Bernasconi answered that it will be two feet below the existing ridge. Photos were again used to indicate the location in regard to the roof line. Mr. Wasserman explained that you would not see the deck unless you were on the lake side of the house. The neighbor has a deck forward of this structure which has a wall around it; on the opposite side, there are a couple of large trees also restricting the view of the deck from the other side. It's a

central view out, and you can only see it from the water side coming in. L. LaCourse used the photos showing a shed pitched roof to indicate the location of the deck.

P. Monziona asked for the dimensions of the deck. Mr. Bernasconi answered that it would be 11 X 19 because it will be 6" inside the width of the porch, which is 20'. P. Monziona clarified that it all stays within the footprint of the structure; Mr. Bernasconi confirmed that it does.

P. Monziona invited comment from John Dever; Mr. Dever had nothing to add. P. Monziona then opened the floor to public input, either in favor or in opposition. There was none. Mr. Wasserman again referred to the letter from the abutter, which applies to the deck. She is not objecting at all to the deck or the staircase. Public input was closed.

The Board moved directly to the Special Exception Worksheet.

1 – S. Miller stated that a plat **has** been accepted by the Planner in accordance with Alton Zoning Ordinance Section 520B and a recommendation has been made. T. Kinnon agreed. P. Monziona agreed and added that they did not originally have this on these because of the setbacks, but that has been provided and accepted. L. LaCourse also agreed.

2 – T. Kinnon stated that the specific site **is** an appropriate location for the use. The use is not changing; it's residential use. All members agreed.

3 – P. Monziona stated that factual evidence **is not found** that the property values in the district will be reduced due to incompatible uses. The applicant pointed out and provided photographs of other structures in the area with decks on them. There is nothing about the proposed design or location that will in any way reduce values of other properties because of incompatible uses. L. LaCourse agreed and added that the photos are more than adequate to show what P. Monziona had said. There is privacy on one side; the neighbor has a deck that protrudes, and he is well within his rights to build the deck. S. Miller agreed, stating that it looks like Alton to him. T. Kinnon also agreed.

4 – L. LaCourse stated that there **is no** valid objection from abutters based on demonstrable fact. The abutter has agreed, and there is proof of that. All members agreed.

5 – S. Miller 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. Unless there is a plan to have a lot of parties and a big band up there, there is no undue nuisance. T. Kinnon agreed. P. Monziona also agreed, adding that he does not think this affects these issues. L. LaCourse also agreed.

6 – T. Kinnon stated that adequate and appropriate facilities and utilities **will** be provided to insure proper operation of the proposed use or structure. On a deck, there is not a lot of need for facilities and utilities, and the structure already has them. All members agreed

7 – P. Monziona stated that there **is** adequate area for safe and sanitary sewage disposal and water supply; this is also not applicable. All members agreed.

8 – L. LaCourse stated that the proposed use or structure **is** consistent with the spirit of the ordinance and the intent of the Master Plan. This is a small expansion and he thinks it will work very well. S. Miller and T. Kinnon agreed. P. Monziona agreed and added that in order to have a deck on this structure it should be located where it is proposed. Any other location would require building in the setbacks. For that reason, this is certainly consistent with the spirit of the ordinance and the intent of the Master Plan.

L. LaCourse made a motion to approve the application for Case #Z10-13. T. Kinnon seconded the motion, which passed by unanimous vote of the Board.

VII. REHEARING

Case Z10-09 Lawrence and Charlene Martin	Map 15, Lot 64	Variance 560 Old Wolfeboro Road
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Application submitted by Lawrence Martin to request a variance from Article 300 Section 328 to allow the expansion of the den by adding living space to the existing den by going up beyond the allowable 35 foot height limit. This parcel is located in the Rural zone. This is a REHEARING.

S. Ames read Case Z10-9 into the record.

Attorney Arthur Hoover is representing the Martin's in this rehearing. He introduced himself and Lawrence and Charlene Martin. As this is a rehearing, he is not sure how much detail he needs to go into. At least three of the members have heard this presentation offered by someone else; he will do what he thinks is necessary and if the Board feels they need more information, he will do what he can to help.

In the materials turned in, there should be a copy of the floor plans and the drawings; when he checked the record it was apparent they were in the files. The floor plans are there for the proposed structure; he believes there is also a plat of the land in the materials.

The property the Martins own is on Old Wolfeboro Road. It consists of 35+ acres. The home is secluded; it is 500 feet from the Old Wolfeboro Road and it can not be seen by any of the other abutting properties which have structures on them. The elevation is rather interesting; from the road to the home there is an elevation gain of 54 feet which means for every 100 feet of driveway, there is a 10 foot gain in elevation. Mr. Hoover brought out a poster showing the property. He pointed out the abutting homes and properties, showing the location of the homes and the names of the abutters.

P. Monziona stated that this case had been presented previously by the Martins' son; many of them voted in favor. There was a motion for rehearing, which was granted. So that this is all done appropriately, he stated that upon granting of the motion for rehearing, this is to afford an opportunity to point out why the case should be reheard. He appreciates what they are showing now because they didn't have that. Mr. Hoover returned that, when they granted the motion for rehearing, he is required to come back and present it as a new hearing. He does not think he is required to answer why he thinks there should be a rehearing. P. Monziona agreed, but added that the things as to why they should have ruled a different way is what this hearing is for. Mr. Hoover commented that in that case the only issue that is before them is the hardship issue. P. Monziona agreed; that is the one criterion where it did not carry.

Mr. Hoover agreed to confine his presentation to that area. He added for the record that there are no abutters present; he contacted each of the ones who have homes. They have all submitted consents and agreements, which Mr. Hoover handed in to S. Ames. Two of the abutters can see, from their homes, the balloons that are showing the height of the proposed communications tower, but they can't see the Martin house. He feels that this goes toward demonstrating the isolation of this home. P. Monziona explained that the reason for confining to the one issue is because he is concerned about expanding the record, like de novo, if you will. On hardship, what he is pointing out there is very relevant and helpful.

Mr. Hoover referred to a second poster that shows the structure itself. The current first floor was a den and it was built on old wooden pilings; they are replacing all that, and there is going to be a crawl space. This is an improvement to a building that is about 80 or 90 years old. They're adding a second floor, which will exit into the

bedroom; the third floor will be a reading/observation room. They will be able to view the lake from this room. The staircase going up to it has access from both the first and second floors.

The town has determined that the average grade is 39.2 feet. It is interesting to note, that without the cupola, or top, which is about four feet, this structure would meet the height requirement. That is the piece that brings the ordinance into question. The statute involved and noted in the minutes of the last meeting is the new statute that defines the criteria that are necessary for a variance. That is RSA 674:33 1 (B), etc. The issue being dealt with is hardship; that statute has three conditions that are required to meet the hardship criteria.

The first is that there must be special conditions that distinguish the property from others in the area. In this case, there is the elevation; there is the size, and the fact that it can't be seen. If someone on the road frontage – the other property owners – wanted to have the same view, their tower would have to be about ninety feet tall. There is a big difference between the properties.

The second condition that has to be met to satisfy the criteria for a variance is that there is no fair and substantial relationship between the general public purpose of the ordinance and the specific application of that provision to the property. In this case, the general purpose of the ordinance is public safety; they do not want anything very tall because there are fire issues and safety issues. That has already been met by this application; if the Board would look at their materials, each department head has examined the application and determined that there are no safety issues. That has been met. The other part of that is whether it is fair to apply that general purpose to this particular property. The answer is no because they already satisfy the two things that are necessary; they satisfy public safety and they satisfy the general purpose of the ordinance which is to protect other property owners – no one can see this. To come in with the ordinance and say that you must have only 35 feet height when they are already satisfying the purposes of the ordinances with 39 feet, there is no fair relationship between the general requirements and how they are applied to the specific requirements. It would be different if it were visible and could be seen, but that is not the case here. It is interesting to note that there are trees in the back of this property that are fifty feet tall; it can't even be seen from the back side. It's a location where it can be isolated from the other property owners and at the same time the safety issues are not a problem. Because there is no fair and substantial relationship between the general purpose and this specific application, this particular condition has been met.

The third part of meeting the criteria of hardship is that the proposed use is a reasonable use. In this case, the single family residence, which is the use, is a permitted use. It is obviously, by definition, reasonable.

Improving the property in a way that has no adverse affect on anyone and addresses the public safety issues is a very reasonable use. Nobody is affected and the safety issues are met; the department heads have all agreed. They are replacing a building that is 80 years old and needed replacing. That is a reasonable use. By allowing the Martins to use the property and obtain a view without impacting anybody is also a reasonable use. Not cutting trees to create a view is very reasonable; he has only to call attention to the west side of the bay where people have clear-cut to obtain a view.

Steve Miller asked if there was no other alternative to reduce it (the height) by four feet, two inches, by reducing the size of the cupola, or by another architectural design that was aesthetically appealing. Mr. Hoover answered that this was the height at which he could obtain the view; if he went much lower, that view would not be available. S. Miller reminded Mr. Hoover that it was the cupola, as he had said, that was the deciding factor; the view is still the same, with or without the cupola. Mr. Hoover commented that you would then have a flat roof. S. Miller said you could have a slanted roof. Mr. Hoover answered that it would be very tight to meet the 35 feet. Additionally, the 35 feet is not uniformly applied. There is a provision to build structures above 35 feet by special exception; one of those is a cupola. The definition of cupola is not contained in the ordinance. There are, built into the ordinance already, provisions for this type of thing. He did not make the initial application; he might have done it differently. The result is still the same.

P. Monziona explained that if this had been brought in as a request for a cupola, they would be in for a request for a special exception; it is permitted to exceed 35 feet with a special exception for bell towers, church steeples, cupolas, etc. You've got a room with a roof; when you talk about the roof line, you are above the 35 feet average height with finished grade. Mr. Hoover commented that if he had been involved with the application when it was originally submitted, he probably would have done it in the alternative so the Board would have had both of them. P. Monziona said that the drawing submitted and the description provided is a room with a roof, so technically it may not be a cupola, and they are probably here with the proper application for a variance as opposed to a special exception. You can't go wrong, given what the structure is, with the variance. It is a point well taken that the town recognizes that if this were a cupola or bell tower or church steeple, that the special exception reg. says, they would be here on a special exception.

Mr. Hoover stated that there is no definition for "cupola" in the ordinance, but he looked it up in the dictionary. It says that a cupola is "a rounded vault resting on a circular or other base and forming a roof or a ceiling, or a small structure built on top of a roof." That is the definition according to Webster's Dictionary. L. LaCourse has read something about cupolas in the ordinance, but could not recall where it is. Mr. Hoover said that there is room in the ordinance that says they can do this at greater than 35 feet. L. LaCourse pointed out that there has also been a change in the definition of hardship in the last few months also.

P. Monziona opened the floor to public input. He is curious, as this is back for rehearing as opposed to the application being granted, kind of de novo, he thinks any input from the public should limit itself to the issue of the rehearing as opposed to opening this up as if it were from scratch. He requested input, either in favor or in opposition. Hearing none, public input was closed.

Even though this is a rehearing, the Board will proceed through the entire worksheet. T. Kinnon stated that his experience on the Board has been that the biggest concern with the height restriction has been the safety issues and the fire departments ability to reach the structure and respond to any emergencies. His biggest concern coming into this case was that; with the fire department showing no concerns because of the height that alleviated his concerns. There have been cases where structures have been required to have fortified or strengthened soil for access; the fire department has not requested that here, so he thinks the request is reasonable. P. Monziona commented that the only thing he would say is that when they did this on the first go around, he voted in favor of every one of the criteria. He thought all the criteria were met, including the substantial hardship. He has not changed his opinion on any of that; if anything he feels even more confident that they work.

WORKSHEET - VARIANCE

1 – T. Kinnon stated that the variance **will not** be contrary to the public interest. He added that Attorney Hoover has laid out quite well how this will not affect the public in any way, shape or form because of the isolation of the structure and the elevation. The fire department has not shown any concerns with the structure; he does not feel it would be contrary to the public interest. P. Monziona agreed for all those same reasons and added that they are talking about four feet on a height that would otherwise have been within the reg. L. LaCourse and S. Miller also agreed.

2 – P. Monziona 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 thought so the first time and he still thinks so now. There is nothing they heard from the fire department or code enforcement or anyone else that this would pose any problems for health or safety, and it's not going to upset the character of the district. All members agreed.

3 – L. LaCourse stated that by granting the variance, substantial justice **will** be done. As has been discussed, there is no substantial change in the use of the home. The height is needed to see the lake. S.

Miller disagreed based on the hardship test. He does not believe that the height variance does meet the hardship test. There are no special conditions to distinguish it from other properties. Literal enforcement of the ordinance would not result in unnecessary hardship; the property could still be used as intended. He believes the owner has a myriad of other options to keep it within the 35 foot height restriction. He does not accept the concept of no harm, no foul. The ordinance was written as being reasonable; without a significant hardship being shown, he feels they should not make an exception, so he would disagree on substantial justice because he does not believe there should be an exception in this case. T. Kinnon believes substantial justice will be done in this case by granting the variance. P. Monziona stated that by granting the variance, substantial justice will be done; that is the only way to achieve this reasonable use as Attorney Hoover points out. The use is very reasonable, and under these circumstances, when you consider the unique characteristics of this property, a structure isolated on 35 acres, not obstructing anybody else, not posing any danger, threat, or any issues of safety or convenience to the district, the only way to achieve the purpose that the applicants wish to achieve, given the unique character of the property, is to have this variance granted. This is a very reasonable variance, and so substantial justice will be done by granting the variance. There would be no other way to achieve this view. He disagrees that there are options available. There is no other way to achieve this view, with this structure, without having this slight variance on the height.

4 – S. Miller stated that the request **will not** diminish the value of the surrounding properties. It appears to be a significant capital investment. It is aesthetically attractive, and there is no problem there. T. Kinnon agreed. P. Monziona agreed and added that they have no evidence that it would. L. LaCourse agreed.

5 – T. Kinnon stated that for the purpose of this sub-paragraph, unnecessary hardship means that owing to special conditions of a property that distinguish it from other properties in the area and that no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property. To that one paragraph, he would like to make the statement that he thinks they should take these individually. He believes it is important because they are separated. He believes no fair and substantial relationship exists between the general purpose of the ordinance and the specific application because of the size of the property, the isolation of the structure, and also the fact that the fire department has not shown any concerns with this structure. His understanding has always been that the major reasoning for this height restriction has always been so that emergency personnel are able to address anything that may come up at the site or on the building. Also, obviously a concern would be view restriction of neighbors, which does not apply here. He feels in that case that there is no fair and substantial relationship between the purpose of the ordinance and the specific application of that provision to the property. P. Monziona agreed with that and added that for all the reasons that Attorney Hoover articulated, the purpose of the ordinance and the 35 foot height restriction, in general if not the exclusive use of that, is safety of the community and so that fire equipment can handle something of a certain height, and also so that a structure does not become an impediment to abutting properties or block views or cause other properties to become diminished in value. That's why the height restriction exists in our town – for safety and to keep other properties from being impaired in terms of value. None of that exists here, and the unique conditions of this property are such that it is 35 secluded acres; in order to achieve the view, they have got to have that extra four feet. No fair and substantial relationship exists between the general purpose of the ordinance and the specific application to this property. L. LaCourse stated that for all the reasons mentioned, he would agree. S. Miller disagreed; he does not believe there are any special conditions of the property that distinguishes it from other properties in the area, and that the extra four feet, two inches is not a function of the view, but a function of design.

P. Monzione voiced his approval of handling each of the criteria separately.

T. Kinnon stated that the proposed use is a reasonable one. The use is not changing and the use in that area is reasonable for residential. P. Monzione agreed for those reasons. L. LaCourse also agreed and added that attaining a view of the lake is not unreasonable at all. S. Miller agreed and added that he thinks it is a reasonable request.

T. Kinnon continued – based on the above analysis special conditions **do exist** such that the literal enforcement of the zoning ordinance results in unnecessary hardship. Even though there is one dissenting member of the Board, there is still a majority of the Board that believes that literal enforcement of the zoning ordinance results in unnecessary hardship. P. Monzione agreed that it does and for all the reasons described in dealing with fair and substantial relationship criterion. L. LaCourse stated that he had been one of the people who disagreed last time and he has changed his mind; he is agreeing. Part of the reason is the change in the interpretation of the hardship rule. Initially his thoughts were that there are trees there; if you want a view, you have the choice of cutting trees down. They are choosing not to cut the trees down; he saw that as no hardship because all they needed was a chainsaw. He thinks that with the new expanded interpretation of the hardship rule and the fact that there is a specific uniqueness to the property and the size of the property, and the pitch of the property, etc., he has changed his mind, and he does agree. S. Miller disagreed; he believes this should be a design issue more than an ordinance issue. There are significant remedies out there.

P. Monzione stated that, since they do not have a unanimous agreement on the summary statement which if they had they would not need to take a vote, now they will need to take a vote upon appropriate motion.

T. Kinnon made a motion to approve Case #Z10-09 without conditions. L. LaCourse seconded the motion which passed with three votes in favor (PM, TK, and LL) and one opposed (SM).

With three votes in favor and one opposed, the motion to approve or grant the application is approved.

At this time, the Board took a short recess.

The meeting was called back to order. P. Monzione announced to those present that if it gets to be 10:00 p.m., and they are in the middle of a case, they stay later that 10:00 p.m. and finish the case. They do not begin a new case after 10:00 p.m. He also stated, in regard to the Rogers application that since he is recusing himself from that application, there will only be three Board members present to hear that, and they would need to unanimous vote of all three sitting members.

VIII. NEW APPLICATIONS

Case #Z10-15 Debbie Glazier	Map 6 Lot 17-1	Variance 640 Suncook Valley Road
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Application submitted by Randy Couch on behalf of applicant Debbie Glazier to request a variance from Article 400 Section 450 Table of Uses to allow a dog grooming and boarding facility with an apartment. This parcel is located in the Rural zone.

S. Ames read the case into the record.

Randy Couch, Debbie Glazier, and Kerry Fox, a land surveyor in New Hampshire, came forward to present this case. Mr. Fox has created the existing conditions plan for Debbie.

P. Monziona stated that the other cases that they have done this far tonight have been continuances and rehearings. This is the first new case of the evening, so the first thing they have to do is to decide whether they can accept the application as complete. They review the application, the a motion has to be made whether to accept it as complete; that motion has to be voted on, and if it's voted on favorably they accept it as complete and proceed with the application. In that regard, he is wondering whether the applicant has had an opportunity to see the Planner's comments on the Planner Review of this application. S. Ames provided the applicants with a copy. P. Monziona continued, saying that what happens with these applications, fairly routinely, is that the various Department Heads of the town have an opportunity to review these applications and then to submit comments to the Zoning Board, such as from the Fire Department, the Police Department, Code Enforcement, and certainly from the Town Planner. She has a chance to express any concerns or issues in writing the Board so they are guided by that or have a chance to take those into consideration. If they go through that, the Planner Review comments note that there are septic capacity concerns from Code Enforcement – exceeds present capacity needed for fifty gallons per day, per kennel. How many employees – they will address that if and when the application is accepted. The main issue, with regard to the first question of whether to accept the application as complete is, apparently the plat does not contain meets and bounds certification, probable topography, and wetlands identification.

Mr. Fox stated that they have since provided that information. He had come in a few days ago and provided that information to S. Ames, so that should be in the information now. S. Ames explained that she had just handed out the plans; Sharon's report was done prior to this. P. Monziona stated that they are seeing this for the first time now; they generally like to get things as far in advance as possible so when they come in, they are as prepared as they can be and are able to make a decision the same night. Sometimes, if they are getting new stuff, that means they will continue and get a chance to look at it instead of trying to do all of this in one evening.

P. Monziona asked if this is an engineered survey. Mr. Fox stated that the concern was to show the existing features there on the property and how those related to the boundaries. They wanted to see topography and soil conditions; he has tried to pull all that together in the existing conditions plan. He understands that they haven't had an opportunity to really see it. P. Monziona stated that they have it now, and that may very well suffice. He asked if it provides information regarding the septic capacity. Mr. Fox answered that they do know that currently there is a state approved septic design; a state approved septic system on the property for four bedrooms, 600 gallons per day. They also understand that any additional loading beyond that would require another state approved design. It's a two acre lot; the soil conditions are fair out there. It is a moderately well drained soil; there is plenty of land area to support additional loading. They just have to go to that avenue. P. Monziona asked if, as far as what is being submitted with the application this evening, there is no corresponding information regarding septic capacity for the proposed use. Mr. Fox answered that there is not; at this point they don't really know. The determining factor would be the actual soil conditions and how much loading you could place on that. Currently they don't know that; they are still trying to work with the state to get a firm definition of what a kennel really is. They know the number of fifty gallons per day, per kennel – they are just trying to get a little better definition of what a kennel really is.

P. Monziona continued; they have the survey, the filled out application, and the written narrative. There are also floor plans, or a depiction of the layout. There are also some exterior elevations. Mr. Fox deferred to Mr. Couch for that information. P. Monziona continued, stating that just to list what they have in the application, they have the survey, the narrative, the filled out application, floor plans, and elevations. Mr. Couch stated that those are the original site drawings they have had for a while; basically his (referring to Mr. Fox) just bring in the buffer areas and relocate the driveway one more time. P. Monziona stated that he is just trying to understand what they have provided the Board with. He went on to say, in regard to the floor plans, that they have not been constructed yet. He asked if the elevations are of the existing structure. Mr. Couch explained that there will be very little change on the existing structure on the outside. Right now they're thinking dormers on the front; that is a possibility in the future. P. Monziona clarified that the elevations they are providing are what they propose the structure would look like when finished. Mr. Couch pointed out that there are some that say existing and some that say proposed. P. Monziona voiced understanding.

Mr. Fox added that they have had a wetlands scientist on the property to conduct a site walk. They have his results; a copy of that letter has been provided to the Planning Department to add to the folder. There are no wetlands issues on the property whatsoever.

T. Kinnon made a motion to accept the application for Case #Z10-15 as complete. S. Miller seconded the motion which passed by unanimous vote of the Board.

Mr. Couch explained that what they are proposing is about 3/8 of a mile toward Barnstead from Stockbridge Road on Route 28. It is taking a three bedroom house with an in-law apartment and turning it into a three bedroom apartment for the family and a family business of 28 – 30 dog kennels. The land is adequate; they can bring people in off Route 28 safely by reconstructing the driveway. He has had a plan turned down by DOT to reconstruct it one way, but Kerry has done these drawings and they'll be put in front of DOT and hopefully accepted. DOT was okay with them reconfiguring the driveway, but they didn't like the 50' driveway he really wanted in the beginning to make it as safe as possible. There is adequate view from the driveway to safely get on and off Route 28; it goes some 1,600 feet one way and more the other way.

He does not believe this will be a detriment to the community; the community could probably use a nice doggy daycare facility. The area is one that he has had an approval for in the past; about a mile up the street he had gained approval for an upscale doggy daycare system, but that one didn't happen due to the lady running out of money. It was a different client in the same area; the Board accepted that one but the financing fell through. L. LaCourse asked where it is located; he wondered if it was just off the corner of Stockbridge and Route 28, on the west side. Mr. Couch said it is on the north side about 1,000 feet up the road favoring the side toward Barnstead. L. LaCourse asked if it was part of the blow-down area; Mr. Fox had not noticed that. He said there is a little crossroad just beyond that; he is referring to Hamwoods. There was discussion concerning the location of the blow-down in regard to this property.

S. Miller asked if any thought had been given to the noise level to the abutters, and the potential odor that might come from this. Mr. Couch answered that the dogs would be let out on a constant basis. There are large pens indicated on the drawings. The waste will be picked up immediately and put into a Waste Management bin and removed on a daily basis. S. Miller asked if they would be on grass or gravel. Mr. Couch answered that they would be on grass. S. Miller asked if there would be a barrier between the grass and some depth. Mr. Couch said no; there would be a fence all the way from the back of the house; this is a walkout basement and the dogs will be walked out the basement into a kennel area. They will never leave the fenced in area. When they go through the kennel area out back, they go into a large pen. There are some pens that are on asphalt.

S. Miller stated that there would be constant noise because there would be dogs constantly entering and exiting the pens. Ms. Glazier answered that they would be turned out supervised, either singly or in pairs depending on who gets along with whom and what works the best for the noise level. L. LaCourse asked if she would be cycling them throughout the day; she confirmed that she would be.

S. Miller asked if there was any research as to what the noise level could potentially be. Ms. Glazier answered that it all depends on the dog; there are different factors that come into play with that, so it is hard to say. They plan on being very respectful of the neighbors, and she and her children are going to be living there also; they don't want the noise either. S. Ames referred to the drawings and asked if the area around the house indicated as "undisturbed area" is wooded or shrubbery. Ms. Glazier indicated that it is wooded; S. Ames commented that it looks to be about 25' – 40' deep, so that could be a pretty good buffer from the abutters.

S. Miller asked if you would be able to see the pens from the road. Ms. Glazier stated that it is a big fenced in area and you could possibly see a piece of it as you go by, but it is set back. Mr. Couch added that it is all set back behind the house; most of the operation comes out of the basement and filters to the back of the house, which sets down low. It is probably 20' below Route 28; it's a fair drop in elevation.

T. Kinnon asked if this is the brown structure on the right side; Mr. Couch confirmed that it is. T. Kinnon acknowledged that it is a considerable drop from the road.

P. Monziona asked if they are looking for a variance because this particular use is not even listed in the Table of Uses. Mr. Couch confirmed that to be the case. P. Monziona continued that it is, therefore, not permitted by Special Exception. It is not even in the Table, so they need the variance. He was looking for things that are akin to it; stables are permitted in the rural zone. T. Kinnon said that he can not recall a case where they have granted a variance for something that is not even in the ordinances. S. Ames explained that Alton has inclusionary zoning; if it is not expressly written, it is not allowed, which would require a variance.

S. Miller asked if there is any kind of ordinance that prohibits expanding the type of animals that are there; in other words, boarding horses one day. S. Ames answered that there is not. He restated the question – is there anything that would legally prohibit them from expanding the operation to something other than dogs and cats. S. Ames stated that Debbie has her own miniature horses; Ms. Glazier clarified that she has one miniature horse and one miniature donkey. S. Ames stated that the Board has the option to make a conditional approval restricting that; if Debbie doesn't approve of that, she can appeal the decision. Mr. Couch pointed out that the request is strictly for a doggie daycare; stable are listed but are separate from this. S. Miller asked if the horse would be stabled there; D. Glazier answered that it would as would the mini donkey. P. Monziona stated that the zoning ordinance permits, in the rural area, stables or riding academies, so animal uses particularly for horses are permitted. The point is that they can not do mixed uses. They can not get permission to do this and because the other is permitted also. Mr. Couch stated that the business is strictly for dogs; she has a couple of pets right now. The horse and the donkey are pets that she currently owns.

P. Monziona invited further questions from the Board. There were none. He invited further comment from the applicant. Mr. Couch added that he thinks this is a viable business for the town, and that she would do a good job here; it will be in demand.

P. Monziona added that there was an abutter who provided a letter in opposition. He asked if they were aware of that. Mr. Couch answered that they had gone to the Planning Board and he expected them to be there to voice their opinion, but Stacey did let them know that someone had written a letter.

P. Monziona asked about the driveway issue with the DOT; they had been denied on their application but they are working with the DOT. He asked if the building would be a primary residence for the owner; Mr. Couch answered that it would. P. Monziona asked how many employees they expect would be present on site at any given time. Ms. Glazier answered that it would be family run. P. Monziona explained that, regardless of whether they are family, in addition to animal waste, what would be the load? Ms. Glazier answered that there would be at least two others in addition to herself. P. Monziona clarified that there would be a full time residence, plus two employees in addition to the occupants of the full time residence. The apartment would be the housing and the kennel would be the business, so there would be two employees plus her (Ms. Glazier) at the facility during business hours. P. Monziona asked if the employees would be there round the clock; Ms. Glazier answered that there would be set hours of dropping off. P. Monziona stated that there would not be employees after business hours; it would just be the house functioning at that time. She would be on site 24 hours; for the animals remaining there would be someone in the residential area. Mr. Couch added that it is hard to say how many animals would be on site 24 hours; it depends on how business goes. She doesn't really expect to use all those kennels. P. Monziona explained that when they submit the floor plan with that number of kennels, and you describe the number of kennels, he thinks it is fair when they go through the criteria to see whether this should be approved, they have to take it as if all the kennels are full. Mr. Couch said that he thinks they can't do that because the size of the leach field may depend on that. They may have to say they can only have five boarders or ten boarders. P. Monziona stated that a condition of this approval may be that they have to obtain and submit proper approvals from the state of NH and DES on the septic. The way they look at this is that they have to approve it as if it is going to be used to full capacity because that is what they are submitting. It can be conditioned on their plan being approved by the state. He's not saying they are there yet, but that might be one way to do this. If there are 28 kennels, there is a potential

for 28 dogs to be there for 24 hours. Another way to do this would be to say that there are 28 kennels, but you can only have five of them filled overnight. It's harder to impose specific conditions on how she can operate her business than for the Board to assume the plan she is giving them is the one she is asking them to approve.

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

Mr. Steve Berringer came forward to speak in favor. He has lived in Alton for 18 – 19 years; he has a dog that is about 9 years old. A daycare facility would be ideal to give her the quality of life she needs. She's older and does need to be let out a little more often. She sleeps and eats and that's about it. As far as the business, this is how the town can grow. He would like to have an opportunity to have a dog taken care of when he is at work, or when he wants to go hiking on the weekends. He is sure there are issues with noise from people in the area, but this is how people grow. It will provide an opportunity; he can see more noise coming from unsupervised kids than from supervised dogs. This would give her an opportunity to have dogs in her house and her kids to have jobs and for everybody to have an eye on each other. He doesn't see a bad thing; some of the neighbors may say this is terrible. If the noise is a factor, they have trucks and motorcycles; it's a very loud road. Dogs barking, you're going to hear that anyway, whether it is one or two dogs barking at someone's house. There are motorbikes in the woods; you have noise that way. In the late fall, winter, and early spring, windows are shut up – is the noise that bad outside. He doesn't know cats that well, but he is sure they don't meow that loud. He feels it is a viable business and it would be a good asset to the community because a lot of people like their pets more than they do their kids. They want to give them a little bit more than to just shut them up in a closet or keep them in a pen when they're at work. His kids are older now; they're not home and can't take care of the dog. His neighbor's kids are older and into sports; they can't help him out anymore. He does not feel he would be alone in this endeavor as far as it being a good wanted service for his dog and himself.

L. LaCourse asked Mr. Berringer where he lives. He resides on Trask Side Road.

There was no one else wishing to speak in favor of the application being granted.

P. Monziona asked if there was anyone present wishing to speak in opposition to the application being granted.

Shirley Lane, 651 Suncook Valley Road (diagonally across the street), stated that the noise is an issue with her. They purchased their land in 1975, so she has been in the neighborhood for 35 years and thinks she knows it very well. As far as the wooded area they speak of, that is behind their house; it's not going to help those across the street. There is no wooded section between them. She does not like to stay in the house all the time; she would like to get out and enjoy her land and she does not want to have dogs barking. She does not work; she is retired and lives at home. She would have this noise all day and all night; when one dog sees another dog, it's going to bark. She feels there is no way to control that.

Mrs. Lane would also like to comment on a family business. There are two daughters and they're in school. During that time, there will be no one there. She (Ms. Glazier) has a van that she goes around to houses to do grooming, so there are going to be times when there is going to be no one at that house. She fears that the noise level is going to disrupt her living, and she really doesn't care to have to move.

Mrs. Lane commented on the traffic. The state limits entrance and exit off those pieces of land. It is a state road; has the state done an impact study on thirty people dropping dogs off in the morning and picking them up at rush hour, during that time of day? That is the busiest time on that road. Also, those driveways on that side of the street are all uphill driveways. Those uphill driveways, when they are trying to get out in the winter, she hears them. The cars are winding and winding. Finally they make it to the top, and they're not going to stop once they get that momentum on that ice; it is a very icy area. These people have not lived there in the winter time; she can vouch for what the winter ice conditions are like. That is not even taking into consideration snow banks that are there. When they finally get up to the top, she hears all kinds of screeching of cars because that car has darted out in front. Now

you're going to have thirty people dropping off at the iciest time of the morning when everybody is on their way to work and in the evening coming home. She thinks a study should be done as to how much traffic will be allowed.

The area between Hamwoods Road and Stockbridge Corner Road has the most accidents of that whole area of Route 28; they can check with the police because that is where all the accidents happen. There is black ice out there and cars are going sideways down that road, especially if there is snow out there – that road is a hazardous area to pull out and enter in. If you are going to stop and put your directionals on, someone is going to come from behind you. Trying to get into her driveway – she lives on the left hand side, and many is the time she is there with her directional on waiting for a car to pass, someone is trying to go past her on that side, even with her directional on. It is a bad area for the winter time.

She asked that the Board not include this type of business in their rural neighborhood. She thinks it would be a detriment to the area.

The lot is a two acre lot, for 30 – 40 dogs, a horse, a donkey, and cats. That is a small area for the amount they are looking to house there. She thinks she would like for the Board to investigate who is going to be in control and who would be able to be there on a daily basis.

P. Monziona clarified the location of Mrs. Lane's home. Mrs. Lane explained that she is diagonally across the street and within the area so that she got a letter. She explained that the reason they did not go to the Planning Board was a misunderstanding on their part. They got the letter to come to the Planning Board, and before that date happened they got another letter; she quickly scanned the letter and thought they were postponing the Planning Board to that when in fact it was a notification of this meeting. Had they known that Planning Board meeting was going to go on, they would have been there. The fact that no one showed up should not be anything in favor of this type of business. Like she said, she lives there and is home all day, and she doesn't want to hear this all day and all night.

Robin Lane, 637 Suncook Valley Road, came forward to speak. She will be directly across the street. While she thinks a daycare business would be a great thing for this town, she thinks for this area where it is quiet, and the size, she thinks the noise level is going to be high. She used to work in Dover, and her dog went to a doggie daycare. When you walk in there, it is constant barking. She really thinks that daycare, with a limited number of dogs; but all night long? She goes to bed early and gets up early and it's not a good thing for a working person to have to deal with; it's not healthy.

Richie Lane, who lives adjacent to where they are, thinks that for the good of the community, you can't say tough luck on the neighbors as far as the dogs barking. He would disagree with that. He believes it is a good thing, but maybe it should be in a more secluded area. He thinks where they are talking a mile down the street, there is less homes there and in back it was all woods with no homes there. It was a little more secluded than what you have there. He does have a concern about the dogs barking; they did have an issue already where he contacted Randy and told him there were dogs out there barking now. It was their pets; it was around 9:30 when the dogs started barking. You talk about the traffic, but the traffic goes by and that's it. With the dogs, it is just constant barking. He is sorry, but he is not in favor of listening to dogs bark all the time.

Carol Pearson, the owner of the ten acres next to where they want to do this (the property is for sale), came forward. Where their house is located is very low, and she does not know where the sewage would go. With all those dogs, and all the noise, she does not think it would be very conducive to have something like that on Route 28 right by Stockbridge Corner.

Robert Blackstock, who lives here in Alton, owns land on Africa Road which is in a rural zone. He is concerned about maintaining the atmosphere of the town he grew up in, meaning that the rural zone is what people buy property and live here is because they want to have peace and quiet. He is concerned with this situation because, even though he loves dogs, this amount of dog kennels and so forth is overwhelming. The noise pollution

possibility of the dogs barking, and he is concerned about the safety of the road. As Shirley Lane had mentioned, that is a very bad area, no matter what time of year it is. People go so fast, and he is concerned that there are going to be more accidents. He doesn't know if there has been a safety study, but that should be looked at and considered. He is also concerned about the waste and how that is going to be handled. Perhaps Waste Management would provide a statement saying that is what they are going to do, so they would have in writing that this is what they are going to do and have it in writing saying they are going to be picking up the dog waste every day.

P. Monziona invited additional comments in opposition to the application. Seeing none, public input was closed.

P. Monziona asked if the house that is there would no longer be for residence; they would have dogs in there in accordance with the floor plans submitted. There would be a separate dwelling unit which is now the apartment. Randy Couch explained that is the second floor of the existing home. The living space would be above the business. P. Monziona asked if the dogs would be kenneled indoors; Mr. Couch stated they would. P. Monziona referred to the exterior covered kennels; Mr. Couch explained those would be to turn the dogs out during the day. Ms. Glazier explained that they would not be staying outdoors; they would be turned out to do their business and then come back in. P. Monziona clarified that the inside of the house would be remodeled in accordance with the submitted floor plan to reflect all the individual kennels and a dog wash station, and all the other stuff that is depicted.

T. Kinnon asked what the hours of operation would be. Ms. Glazier answered that it would be 8:00 a.m. to 6:00 p.m.

P. Monziona addressed the applicant; they have heard the concerns about increased traffic flow at that area with people dropping off and pickling up on that road. Mr. Couch stated that was one of the first things they said; that driveway is much too steep for people coming up the driveway. It just was not feasible. That's why they went right to the DOT and tried to – in fact the new plan shows that they tried to move the driveway all together. When they get to the top of the hill, it is a substantial drop. Now they'll come up to the road level before they leave, so there is no peeling out and no squealing of tires. They have over 1,600 feet both ways.

P. Monziona asked about the congestion of cars coming in at the same time in the morning and afternoon. Some of these folks addressed concerns about congestion at certain times of the day – safety, noise, affect on abutting properties, a property up for sale, and that kind of stuff. He is wondering what response he might have to any of those.

Mr. Couch stated that she wants to abide by the neighbors and keep them up to date as much as she can. She had lived there for a few weeks before they even know she was there. Ms. Glazier added that she had been there six weeks when she had that episode with the dogs barking; it was her daughter's graduation. She has already explained this to Mr. Lane. She had gone to her daughter's graduation, and her other two daughters came home with their dogs and turned hers out; they thought they were helping her. They left them outdoors to go to the graduation; she got a phone call from Randy afterwards when they were having pizza asking what was up that the dogs were barking. She claimed that they were not; her girls explained that they had turned the dogs out.

Ms. Glazier explained that she has six children, not two. They'll all be helping around the facility. Anyway, that was the one episode; she did approach the family and apologize that it was just a... Mr. Couch added that it was before she was able to get her business and staff in place. She did say there would be someone there; she would hire help and there would be someone there 24 hours a day to make sure everything was taken care of.

Across the street she (Shirley Lane) said there is no buffer, but he has never seen their houses. He has been to this house plenty of times, but you can't see the houses across the street because there is a buffer. It's all wooded and it's all on their side of the street. Ms. Glazier added that the kennels will be in the back, and down.

T. Kinnon asked if any dogs would be kept outside overnight. Ms. Glazier answered that there would not.

P. Monziona referred to a reference when they first started; the last two items on page 3 addresses health rules as they apply to the disposal of dog waste, and then the excessive noise and related disturbances will be addressed under the Town of Alton Noise Disturbance Ordinance, Article 1 Sections 1 and 2. It could be that even if she is to get this approval and invest all this money into this, if the dogs are noisy, the neighbors are going to have the right to complain about that under this ordinance and she may, even if she were to get this variance and get the business going, she could still end up not being able to run it if it's noisy or if it poses other problems to the neighbors. In other words, their remedy may not be here with this Board, but their remedy might be with the reporting of noise under the noise control ordinance. Even after she gets dogs in there, she could be stopped; that is something they have to take into consideration too as they go through the criteria.

S. Miller asked the applicant if she has any business experience running a kennel. She explained that she raised dogs herself for about 20 years. She has had anywhere from 20 to 28 dogs. She has a mobile grooming van; her oldest daughter is going to be taking that over so she can concentrate on this business right now. S. Miller asked if there are any trade organizations that give a standard on insulation for noise in a kennel, or for what type of air filters should be mandated for potential odors. He asked if she had initiated any of that at all. Mr. Couch stated that at this point, he has not seen anything like that. S. Miller asked if, during the winter when it is too cold for the dogs to go outside, wouldn't they get stir crazy unless there is an open, indoor place to for them to run. Ms. Glazier explained that the turnouts are going to be covered with carports so they can go outside still; they will not be in the snow. Also, there is a playroom with a TV and a couch where they can relax.

P. Monziona asked if all the additional improvements to the property, such as the covered kennels and so forth, all will be subject to some sort of application process with the Planning Board in order to have the additional structures. Mr. Couch explained that there is really very little added to it. There are a couple of exterior, fenced in carport covered areas. They will have to get permits for the parking areas. The interior construction will also be permitted. There are plenty of permits they are going to be tracking.

P. Monziona invited comment from Code Enforcement. Mr. Dever stated that he met on site with the applicants to discuss a couple of things. One was the driveway; initially DOT had rejected because they wanted a fifty foot access instead of twenty-five, and DOT didn't want to allow them to expand to the 50'. They were looking for room to get off and on and have that; they have reapplied and altered their plans. They did discuss the septic system, and he did talk to DES about it. DES said they would have to have a new system built because of the increase in the loading. When he talked to Joanne McKenney down at DES, it was specifically about figuring the loading as to how many gallons per day, per box. The way she put it to him was that whoever is going to do the design for the boarding type kennels, that would be 50 gallons per day, and the holding areas, where the dogs are temporarily held, the designer would come up with a number that would not be 50 gallons per day, and then take that to DES when they do the design. L. LaCourse asked if that would be in addition to what is already there; what is already there is for the family and would not count toward the extra. Mr. Dever said they would have to plan for the three bedroom apartment that will be upstairs as well as the dog kennel operation itself. Most of the kennels are actually in the basement of the house, so they have quite a few of them downstairs and a few more upstairs. The grooming area is on the ground floor.

The Board decided to deliberate before going to the worksheet.

L. LaCourse stated that for him, this is all new ground. They're looking at changing a use that hasn't been done before, and they really don't have an idea of how much room they should have between the kennel and the existing homes, and which way the air flows; where he lives it flows from west to east naturally. If this building is on the west side of the street is the scent going to move to the other side of the street. He would make the recommendation before they go too much further forward, that they check with other communities and see what they have done. That might give them a good basis for making a solid decision, instead of guessing at what they're going to do.

T. Kinnon agreed that more research is needed; as far as the scent is concerned, he has taken his dog to a few different kennels and found that the kennels generally keep them very clean. They have health inspections and what not. He does not think the scent would be the really big concern; the noise would be, and traffic as well. They've had another case come before them not far from this one, closer to Hamwoods, where traffic was a big issue. That is a big concern with this, too. Something needs to be worked out with DOT. He also agreed with Steve Miller's point about trade associations or professional associations for dog kennels that have standards or criteria. That would help them make an informed decision. He does like the fact that the dogs would be housed indoors overnight; he thinks that would take care of a lot of the abutters concerns about the noise. The hours of 8:00 a.m. to 6:00 p.m. are very reasonable. Some trade association standards of operation would be helpful.

S. Miller asked if they have a written business plan. Mr. Couch answered that she (the applicant) has been trying to develop one with how many kennels and dogs she is actually going to have. It is a difficult procedure to develop. L. LaCourse added that a big criterion would be the number. Mr. Couch added that they put in a lot of kennels; he doesn't know how many of them are going to be used. P. Monziona interrupted and apologized for the question; when they are deliberating, they should not be getting more input. They are talking out loud amongst themselves with the applicant having the benefit of hearing what they are thinking.

P. Monziona shares the concerns raised by the abutters with regard to traffic issues, and potential noise, though he does agree that the fact that the kennels indoors are nice. He also cited, as the Code Enforcement Officer had pointed out, that some of the kennels are in the basement so the noise factor may ultimately end up being controlled. There is still a little bit of a lack of information, as other members have pointed out, that might help them decide if it's in harmony with the spirit of the zoning ordinance and the intent of the Master Plan. As Lou had said, they are being asked to do something that they have never thought enough about to have on the Table of Uses; that's why they are here for a variance. It is going to be hard for him, when they get to this criterion, to figure out whether this is within the spirit of the zoning ordinance and the intent of the Master Plan. Then you get into convenience, health and safety, and character of the district; those are things he is going to struggle with a little bit given both sides of what he has been hearing here. Their options are to do the worksheet, or they have the option to request, because it is within their discretion, that before they move forward with making a decision on this, that they could always request additional information from the applicant. It would be up to the applicant whether they want to comply with that request. It may help them determine this, and now that they're sharing their concerns, maybe do it in a way that would address those. He knows it is tough sometimes for applicants to get DOT approval and DES approval on something that they don't even know is going to fly with the town. They go out and spend all that time and energy to do that, and then they come back before us (ZBA) and don't get the variance.

He would be aided by more information concerning the traffic issue, the noise issue, and the number of animals that are going to be there when they get to the Health and Safety part of this. For him, it would be helpful if they could receive some more refined, more specific information on those particular subjects, and maybe offering the choice to continue this to provide supplemental information. T. Kinnon agreed and added that going forward with the worksheet at this point would not be fair to the applicant, or to the people who are for or against it. He does not have enough information to make a good educated decision.

P. Monziona addressed the applicant – when the members feel, based on what they're hearing, it's too tough a call and more information would be helpful, a lot of times what that means is that they end up denying because as they go through the criteria they can't say the criteria have been met. Then they vote and they turn it down. Here, he is not so sure that would be helpful either. He is thinking that the areas that have been addressed, that he does not feel comfortable with deciding. For example, not knowing the number of animals that they are really going to have; not knowing what the driveway situation is going to be; the safety of the road; the total number of animals for health and safety, etc. Those are things that would be helpful to him. If he knew the application was being very specific; this is how the traffic is going to enter and leave; this is the maximum number of animals that are ever going to be here; this is how we're going to control the noise. If they had some very specific things about that, on top of what they already have, he thinks it would help him make these decisions.

S. Miller has two macro issues that are very important to him. The first is that it is so important that they get good quality businesses in the community. He is very pro bringing quality businesses into Alton. On the other hand, he is also very concerned about the abutters who have been in their homes for umpteen years and have experienced and expected a level quality of life. He doesn't know if it is fair for one business to upset that. He hasn't made a decision; it is just a query so far. To help him answer that question, he is uncomfortable with the lack of a business plan that says what happens if, for instance, we have a noise problem, or an odor issue, or a waste issue. There has to be a plan in place that rather than wing it or what do you want to do, everyone is complaining? That is not the time to sit down and start thinking about that. Maybe you want to be proactive on your business plan somehow and further insulate the operation or you want to be just reactive and make a commitment to limit the number of animals in there if that takes place, and on a season by season basis. For their own benefit, there are a number of issues that can really be the difference between failure and success; those should be addressed now. For the Board's benefit, they should be. He would ask for a business plan so he could see exactly that they know what the problems are and they know how to correct them before he would take a real positive vote.

P. Monziona added that he thinks the idea for the kennel and the daycare for pets is a good one for Alton for the reason given by the person who spoke in favor of it. It's a great business idea and probably one the town has a need for. It would be helpful to have more specific information about how to address those concerns. He asked if they want to make a motion to offer a choice to continue – if they make this motion and offer it, they don't have to accept it. They have the right to have them decide. It is within the Board's discretion to say they are not ready to decide this tonight and they need more information. But, they can't force the applicant to go out and conduct studies and gather more information. They have the right to withdraw or insist on a decision now, but he thinks it would be beneficial to the Board to get more information. He asked for a motion to offer the applicant a continuance and an opportunity to address those specific concerns with some additional information before they do this. T. Kinnon agreed. S. Miller voiced the opinion that they should tell the applicant the specific problems they have so they are addressed. P. Monziona suggested doing that in the motion.

L. LaCourse made a motion to offer the applicant an opportunity to continue to a later date of her choosing; the point of the continuance being to give the applicant time to research and address the Board's concerns regarding waste disposal, noise, odor, traffic, contingency plans, and the maximum number of animals. T. Kinnon seconded the motion, which passed without opposition.

P. Monziona asked the applicant when they would like to come back for a rehearing; they could come back next month if that is sufficient time for them. They have a rule that they get two continuances of a hearing on their own; after that they can consider knocking the application out and they would have to start all over. This continuance, as it was at their request and their vote, this would not count as one of their continuances. That choice is theirs, but for the Board to decide this, they are telling them they would like to have more specific information in these areas from the applicants to help them go through the criteria and make a decision.

The applicant asked if it would be feasible to redesign the floor plan before the next meeting. P. Monziona answered that they have tried to suggest in this option to them, the areas they need assistance in. By no means would that limit them as to what they could submit additionally to help them. If they feel that floor plans, industry standards, or anything else they feel is helpful; the more information they provide, the easier it is for the Board to make a decision. The next meeting is August 5, 2010; materials have to be in 10 working days prior. T. Kinnon stated that they could opt for August 5, and if they weren't ready, they could ask for a continuance. Mr. Couch asked to be put on the August 5, 2010 agenda. P. Monziona agreed to that; they will be on the August 5 agenda to give them an opportunity to get more information and answer the questions. Notice will go out to abutters and they will have a chance to appear as well.

L. LaCourse had mentioned a HACCP, which can probably be found on the internet. It is a standard form that will guide them through steps to find a correction to a problem. HACCP stands for Hazard Assessment Correction and Control Plan. They're talking about noise, waste, etc; this gives them a plan for how to lay it out.

A member of the public asked if materials supplied by the applicant could be obtained and reviewed by them. P. Monziona explained that as soon as materials are accepted by the Planning Department and become part of the application, they are a matter of public record and therefore, are available for public review in the Planning Department.

S. Ames corrected the record; abutters will not be renoticed. This is a continuance, so this is the notice.

T. Kinnon made a motion to continue Case #Z10-15 to the August 5, 2010 meeting. L. LaCourse seconded the motion which passed with all members voting in favor.

A short break was taken so S. Ames could assist with the use of the lift chair.

P. Monziona went on the record to say that during the break, he had spoken with counsel for the Alton Bay Campmeeting Association regarding the scheduling issue. As previously mentioned, no cases are started after 10:00 p.m. The Rogers' application is next; it looks like the Alton Bay Campmeeting Association is going to rather lengthy, and he does not see practically that the Board will get through that tonight and the issue is whether they should even start it, that being the case. During the off the record discussion with counsel for the applicant the suggestion was made, because they have a sense of urgency to get this done, they have requested that perhaps a Special Meeting could be set between now and August 5. P. Monziona would like Tim Morgan to be invited to do that as well, as a member. He suggested e-mailing all of the members, Tim (Morgan) being the only one not present. He voiced regret that he does not have his calendar with him; he would be willing to agree tentatively to a date, if everyone else selected one, but then he would have to confirm it and Tim Morgan would also have to weigh in whether he can do it. At that time, once they all know, they could notify the applicant. Pick a date now and confirm it as soon as they can. He asked S. Ames what logistical problems that might pose, as far as notice, etc.

S. Ames stated that as a Board, they cannot continue a case without a specific date. They would have to set a specific date and time, and if that wasn't going to happen... Five days notice is needed to post the meeting. This meeting acts as the notice. S. Ames suggested Thursday, July 8, 2010; P. Monziona stated that if he can not make July 8, he would notify her and she could notify the applicant that the Board would be shy members; the applicant could then decide whether to proceed with fewer members or not. If neither he nor Tim can make it, they will have three members and will need to have a unanimous vote. The time set is 6:00 p.m.

P. Monziona asked the representative for the Alton Bay Campmeeting Association to come forward to formalize a continuance.

Case #Z10-17 Alton Bay Campmeeting Association	Map 34 Lot 33	3 Variances and 1 Special Exception Mount Major Highway
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Application submitted by JH Spain Commercial Services, LLC on behalf of applicant Alton Bay Campmeeting Association to request a Special Exception from Article 300 Section 320 to allow the expansion of use for up to 26 new dwelling units to be allowed year-round occupancy; a Variance from Article 300 Section 325 to request relief from the minimum parking requirements; a Variance from Article 300, Section 325(B) to allow parking spaces within the 5 foot parking area setback requirement; a Variance from Article 400 Section 433 to allow 42 cottages be reconstructed where the residential zone does not support the proposed density.

Mr. Richard Uchita, an attorney with Orr and Reno, is representing JH Spain Commercial Services and the Alton Bay Campmeeting Association. They have heard the Board's suggestion to continue the hearing to 6:00 p.m. on July 8, 2010, and that works on their side of the equation.

T. Kinnon made a motion to continue Case #Z10-17 to 6:00 p.m. July 8, 2010. S. Miller seconded the motion which passed with all four sitting members voting in favor.

P. Monziona reiterated that his trial schedule might preclude his attendance on July 8; if he can't he will notify the Planning Department who will then notify the applicant.

Mr. Uchita expressed gratitude to the Board for their efforts to accommodate his client.

Paul Monziona recused himself from hearing the next case; Tim Kinnon, Vice Chair, will take over as acting Chair.

Case #Z10-16 Stephen and Raquel Rogers	Map 9 Lot 54-1	Variance 94 New Durham Road
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Application submitted by Stephen and Raquel Rogers to request a Variance from Section 300 Article 340 to allow a directional sign for the Bay Side Inn that exceeds the allowable size. The proposed sign is 6' X 12'. This parcel is located in the Rural/Residential zone.

S. Ames read the case into the record.

T. Kinnon asked the members if they had reviewed the application; all answered that they had. He asked if there were any concerns with the application being complete.

L. LaCourse made a motion to accept the application for Case #Z10-16 as complete. S. Miller seconded the motion. All three of the sitting members voted in the affirmative (TK, LL, and SM).

Stephen Rogers came to the table to present this case.

Mr. Rogers stated that there had been a sign for the Alton Farmer's Market at this location a few years ago, but since Hannaford's has taken over the produce, they still have the farmer's market there as you enter into Hannaford's. Virginia Adams' father had passed on, and she took over the location. She owns the property now, and she has given her consent to be able to put their sign in that location. They have notified all the proper abutters; everything seems to be a go in that department. It is a 6' X 12" sign up on her farm. She just recently made a lot line adjustment. It is way up off the road in the field on the hill; there is no hazard whatsoever to traffic. It can be seen right before the Traffic Circle, giving direction for lodging. The sign is like the Irwin Marine sign; it is one of those vinyl ones you can put a picture on. That is what's being applied.

L. LaCourse asked about the size of the Farmer's Market sign. Mr. Rogers answered that it is pretty close to the same size; the pole from that sign are still existent up there. He doesn't know the actual size, but in order to make it visible, it has to be something like a 6 X 12 or 4 X 10. S. Ames remembered that the sign was large. She recalled that it was bigger than the Fern Hill or MiTeNa signs. T. Kinnon asked if it is 1,000 feet off the road; Mr. Rogers estimated it at about 150'. He also noted that he had listed the pole number as 44AH when it is actually 44A4. It sits up on the hill; the road is quite a way down, so as you're driving you can see it. It's in a good location because it doesn't present any hazard because it's a straight shot into the town. It is before the Traffic Circle so before you start reading directional signs, it doesn't interfere with anything there. A 6 X 12 is smaller than what you would see across from Johnson's where they have the Sandy Point sign. It is nothing like some of the big signs you see, like the one for Irwin Marine on Route 11 going toward Laconia.

T. Kinnon asked if the sign is going to be illuminated. Mr. Rogers answered that it is not; it is pretty much for daytime use. There is a pole there if they wanted to do the power, but they just want to do the directional sign for the daytime. He does not know how well you can really see those signs at night. The other sign he has is on Route 11 right before the 11-D entrance; this one has a picture of the resort. The other sign is laminated so you get the reflection, but this one is nothing like that. S. Ames pointed out that it is also too high up; Mr. Rogers agreed that would not work.

S. Miller asked about the expected life of the sign. Mr. Rogers thinks in is approximately 3 – 4 years; after that, they have the design on file and if you just call them, they can make a new one and all you have to do is ratchet strap it on. Maxfield Realty has the same type of sign. You can just ratchet strap a new one for short money, and it shows the picture and everything. S. Miller asked if he is committed to the upkeep of the sign. Mr. Rogers answered that he is; it is impossible for a car to hit it, as it is way too high. S. Miller asked about the timeframe for getting it fixed if, for example, it was struck by lightening. Mr. Rogers answered that it would be pretty fast; he wants to rent rooms. S. Miller asked about the winter; Mr. Rogers is not open in the winter. S. Miller acknowledged that and asked in what time frame he would replace the damages sign. Mr. Rogers answered that he would replace it as soon as possible; in less than a month.

S. Ames asked if the sign really has to be that large; 6' X 12' is pretty excessive. Mr. Rogers explained that 6' X 12' is actually pretty small; his other sign is 4' X 10'. The reason it is that size is because you're coming right by it, and it's been there forever. S. Ames commented that she thought that was a good sized sign. Mr. Rogers explained that it is right out on the road; this one is going 6' X 12' in order to be able to understand what you're seeing with the directions. This sign is two feet wider and longer.

T. Kinnon asked if the size of the sign is the recommendation of the sign company. Mr. Rogers answered that it is because of the distance that is required. If you are looking at something straight on, that is one thing, but if you are looking at something up on a hill and you're over 100 feet off the side of the road, a 4' X 10' is not going to make it at 60 miles per hour. They had gone to the sign company with that, but once they showed them (the sign company) the layout, they were told that would not be sufficient to try to do their sign. The smaller you make the sign, the smaller the print gets. If you're going 55-60 miles per hour down Route 11...

T. Kinnon asked about the distance to the next sign. Mr. Rogers answered that there isn't one; that is the good thing about it. The only other one down there is the Maxfield sign, which has got to be a good ½ mile down the road. When you come into getting close to the Traffic Circle, the only thing there is the directional signs, and he is a good quarter mile before that. It's really in a nice comfort zone.

S. Miller asked if the two abutters own homes or just land. Mr. Rogers answered that there are no houses there, it's just road. There's nothing there. L. LaCourse asked if this is in the zone they are talking about developing; S. Ames answered that it is the last lot.

S. Ames stated that she had a visit that day from someone from the State. She asked the applicant if that person had gotten back to him regarding the permitting. Mr. Rogers answered that he would be getting together with them the next day at approximately 6:30 – 7:00 a.m. S. Ames stated that they had told her that generally they don't allow signs outside of a commercial zone. S. Ames pulled out the maps and showed her that their commercial zone ends there, but also explained that they are in the process of zoning redelineation; it's a possibility that will be extended down through that area. She does not know if that's going to help. Mr. Rogers stated that all the paperwork is turned in; he had spoken with her (the state representative) today, and that did not pose a problem. S. Ames reiterated that she had told her that it is not a commercial zone yet, but it looks like that is the direction things might be going. S. Ames reminded the Board that if they do grant the request, it would have to be on the condition that he receives his state DOT permits and provide a copy of that to the Planning Department. S. Miller asked for an additional condition; if the sign is damaged in any way, it needs to be fixed in 30 days. The last thing they want is a piece of lumber hanging around all winter.

Mr. Rogers stated that the sign is made and on site, it just hasn't been erected. It's ready to go. It's well within the limits of what's out there; being able to advertise for people coming into town to be able to find lodging locations. He doesn't see it as being a problem to traffic, or posing any kind of a hazard. It's just out there doing the same thing the Maxfield sign is doing right down the street, and that sign is 8' X 16'. He is sitting up further than what that sign is and he's gone to 6' X 12' in order to make it visible for people to get to his location.

T. Kinnon opened the floor to public input. Hearing none, public input was closed.

T. Kinnon asked Mr. Rogers if he had anything final to add. He simply stated that he just wants to put his sign up. Mr. Dever noted that they are allowed two offsite signs; this would be the second. The original permit is in the file; it was issued in 1977, both for the first sign (offsite) and the one in front of the lodging. They have kept it in good repair over the years. L. LaCourse added that if the Farmer’s Market sign was about the same size, this isn’t really a change; it is just a different sign.

As none of the members felt a need to deliberate, the Board proceeded directly to the Variance Worksheet.

1 – T. Kinnon stated that the variance **will not** be contrary to the public interest. L. LaCourse and S. Miller agreed.

2 – L. LaCourse 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. The fact that this is a vinyl sign, in color reflects some of the things they want to see in the Master Plan. It is going to be rural in character to an extent. The fact that it is replacing a sign of equal size is another point in its favor. S. Miller and T. Kinnon agreed.

3 – S. Miller stated that by granting the variance, substantial justice **will** be done. It behooves us to support a long established business in the town, and it’s in everybody’s best interest that he succeeds. T. Kinnon and L. LaCourse agreed.

4 – T. Kinnon stated that the request **will not** diminish the value of the surrounding properties. There are no structures there; it is just land. There is talk of expanding the commercial zone, and there are other signs in proximity, but not too close. He does not think it would diminish the value there. L. LaCourse and S. Miller agreed.

5 – L. LaCourse stated that for the purpose of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area. One, there is no fair and substantial relationship existing between the general public purpose of the ordinance provision and the specific application of that provision to the property, and the purpose of the proposed use is a reasonable one. He feels that the proposed use is a reasonable one; he does not see where there is any fair or substantial relationship that exists between the general public purpose of the ordinance and the application being discussed. S. Miller agreed, adding that it makes good business sense and it would be an unnecessary hardship if they turned him down. T. Kinnon agreed and added that he thinks the uniqueness of the property is the fact that the sign is going to be 100’ off the road, which is a safe distance because there is a lot of traffic on Route 11. Having that distance, the sign does have to be larger than what is recommended in the ordinances. He continued, stating that based on the above analysis, special conditions **do** exist such that literal enforcement of the zoning ordinance results in unnecessary hardship.

T. Kinnon stated that since they have all voted in the affirmative on all the criteria, the application is granted.

S. Miller amended the motion that if the sign is damaged, it will be fixed or replaced within thirty days from discovery.

P. Monziona rejoined the Board and resumed his position as Chair.

Case #Z10-18 Matthew and Catherine Bell	Map 34 Lot 33-14	Special Exception 75 Mount Major Highway
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Application submitted by Roger Sample on behalf of applicants Matthew and Catherine Bell to request a Special Exception from Article 300 Section 320 B2C and A4 to allow the expansion of a non-conforming structure beyond its existing footprint to add a 9’4” X 16’ deck to the rear of the home. This parcel is located in the Residential zone.

The applicant in this case was not present at this meeting.

S. Miller made a motion to continue Case #Z10-18 to the meeting on August 5, 2010. T. Kinnon seconded the motion, which passed without opposition.

IX. APPROVAL OF MINUTES

Due to the late hour, approval of meeting minutes for March 4, 2010, April 1, 2010, and May 6, 2010 was moved to the July 8, 2010, Special Meeting.

P. Monziona made a motion to move approval of minutes to the July 8, 2010 Special Meeting. T. Kinnon seconded the motion, which passed without opposition.

X. OTHER BUSINESS

Mr. Dever added a side-note – there will be a case before this Board, probably in August, requesting a variance for a non-conforming use that is built and was permitted in direct violation of the ordinances. Most have probably already seen it; it is the big gray house that went up on East Side Drive. It's a two family house in the Lakeshore Residential zone. It was written as a single family home; the plans were clearly submitted as a two-family home, and it was allowed to continue. L. LaCourse asked if it was passively or affirmatively allowed; John Dever answered that it was affirmatively allowed. P. Monziona noted that it would probably be a municipal estoppels issue, and would have to be dealt with. He understands they are going to be seeing some of these things from time to time. He owns a property on East Side Drive, but he doesn't think that will prevent him from sitting on that.

Mr. Dever also noted that during the search for a new planner, the Selectmen voted to have him act as the Planning Department Head to work with Stacey; in his capacity as the Zoning Official, he will be at the meetings. P. Monziona voiced his approval of that arrangement, and explained that he had neglected to introduce Mr. Dever at the beginning of the meeting because he was there to provide input on individual cases as opposed to being part of the Board. The planner and assistant planner have always been part of the Board; he had thought about introducing Mr. Dever but thought at that time that he was not part of the Board.

s. Ames announced that there is an interim planner starting on Tuesday, July 6. She is unsure when he will be in the office, or how many meetings he plans to attend.

X. ADJOURNMENT

T. Kinnon made a motion to adjourn. L. LaCourse seconded the motion which passed without opposition.

The meeting adjourned at 10:10 p.m.

There will be a Zoning Delineation Workshop on July 6, 2010, at 5:00 p.m. There is a Special Meeting of the Zoning Board of Adjustment scheduled for July 8, 2010 at 6:00 p.m. The next regular meeting will be August 5, 2010.

Respectfully submitted,

Mary L. Tetreau
Recorder, Public Session