

Members Present: Chair, Marcella Perry; Tim Kinnon – Vice Chair; Tim Morgan; Angela Bystrack; Paul Monziona, Alternate; David Schaeffner, Alternate; Stephen Hurst, Alternate.

Others Present: Assistant to the Planner, Monica Jerkins; Secretary pro tem, Nancy Pritchard; and others as identified below.

**Call to order:** Chair, Marcella Perry called the meeting to order at 7 p.m. She introduced the members of the Board including two new alternates, David Schaeffner and Stephen Hurst.

**Statement of Appeal Process.**

Chair, Marcella Perry read the Statement of Appeal Process.

**Approval of Agenda:** Motion made by Tim McKinnon to accept the agenda for July 6, 2006 as presented. Paul Monziona seconded the motion. All motion was carried.

Tim McKinnon and Paul Monziona recused themselves from the first case on the agenda and Marcella Perry appointed David Schaeffner and Stephen Hurst to sit in on this case.

**Case Z06-17**

**Map 27 Lot 52**

**Variance**

**NH Electric Coop**

**Main Street (NH Rte. 11)**

Application submitted by NH Electric Coop seeking a variance from Zoning Article 400, Section 443 Paragraph B – Residential Commercial Zone, Restrictions Governing Use – to create a lot by subdivision with less than the 75 feet of required road frontage. The property is located within the Residential Commercial Zone. Continued from the May 28, 2006 hearing due to lack of quorum to vote.

Motion made by Tim Morgan to accept case Z06-17. Angela Bystrack seconded the motion. The motion was carried.

Applicant: Karen McGinley, Esq., of Devine, Milimet & Branch in Manchester, NH representing the NH Coop. With Attorney McGinley was David Horton of the Coop, and Richard Overman, surveyor, who presented the plan first. The applicant is looking to sub-divide the property into the standing sub-station on the back and some unknown commercial use on the front.

Attorney McGinley concluded saying that if this variance is granted they will have two parcels. The back parcel will remain a sub-station and that will be its only use. It is their belief that the front parcel will increase in value both to itself and to the remaining parcels because the use of it will be more pleasing, esthetic and useful to the surrounding properties and to the town than a garage and office for the Electric Coop. She stated it would also lessen traffic. There are trucks going in and out of that building every day and if the use is changed to a retail use, the heavy trucks will no longer be a problem in that area and will increase the value of the abutting property due to the fact that the use is discontinued. The fifth and final criterion is that this specific request is the minimum variance that will grant reasonable relief to the owner as necessary for such reasonable use. For the reasons Attorney McGinley described above for the factual basis for this subdivision, she stated there is no other

method of subdividing this property without relief from the requirement for frontage.

The meeting was opened to the public:  
There was no one present to speak in favor.  
The meeting was opened to anyone opposed.

Reuben Wentworth: Representing Jesus Valley Realty Mr. Wentworth stated he has questions and is not speaking in opposition. They are looking to share this driveway if this goes through with three individuals of three different parcels. 1. It is crowded now. 2. He has a concern over snow removal because the top lot (Lot #1) has no place for snow. The snow right now presently at that location goes over the wall and into the wetlands. He is curious of whether or not wetlands were filled in the past. One of the other abutters maybe can answer that better stated Mr. Wentworth, as he has only owned the property for five years on the side of the right a way that is a three apartment building. The Coop has been a good neighbor. He does have a concern over three commercial establishments being there, a residential commercial which he is, then retail or restaurant or a wholesale being in that one apartment and then you have the substation. He doesn't see any hardship here. If kept as it is now, there is no hardship.

Marilyn Dame: Marilyn and Richard Dame, Main Street, Alton, own the building on the Alton Town Hall side of the NH coop. Marilyn has lived on this piece of property for the past 60 plus years. Currently, we have counted at least six cars at Rueben's property. That is a shared and busy driveway. The other part of it is that you need to address the fact that there is also a possibility of a power outage in Alton. As long as we have lived next door whenever there is a power outage in this community, they use the back sub-station on a constant basis until the power outage has been repaired. That might be a question you folks need to ask or consider. The traffic impact on Main St. with another business there is going to be very severe. You have already got Wayside, Dunkin Donuts, and NH Coop. At least NH Coop arrives at 7 a.m. and is out of there by 3:30 p.m. unless they have a power outage. It is Main St., Alton and I really feel it is an overuse of the back land. If I could be sure of exactly what was going into that building that they want to sell on Main St., I might feel a lit bit different. Yet again, who knows what is going to happen in 20 years. You need to consider this because before you know it, you are up to Alton Family Medicine, you are looking at School St., McGrath's, Main Street Café, the Vet and then you are at the bank and on Sat. morning it is a very, very busy place, say nothing about putting another business in there. Give it some consideration. It is a town.

Attorney McKinley and David Horton offered a rebuttal to the above comments: Attorney McKinley stated that the right a way back parcel #2 is a substation. Its use it not going to differ at all with this subdivision. It will be busy during power outages. David Horton stated when we have a power outage the only safe way is to isolate the different areas. If we stay in that building or not, the substation will never change. Attorney McKinley said that the issue of overuse of the driveway is really not relevant because the use is currently commercial. The use will have to comply with the zoning ordinance in the future. Mrs. Dame raised a concern about exactly what would be the use and that really goes in the prevue of the Planning Board to make sure whatever proposed use that wants to go in there adequately addresses what impact it may have. Any future use will not include the current use so the current use of that building, Lot 1, with the heavy trucks will be done. Attorney

McKinley said she deny another commercial will have traffic, but it will be different in nature. Improvement to use of that building and to the look of the building should benefit the town. The current snow storage is basically kept on the site and it does melt. Currently snow from the upper parking lot is pushed over the retaining wall. That is a part of Lot 1 so the owner of Lot 1 will continue to treat the snow in the same fashion that is currently being treated. The driveway is currently on the Coop property and is the only access back to the substation, so it is a high interest of the Coop to clear the driveway to be able to have access to the substation given that sometimes storms do create power outage. The substation has to be accessible 24/7. It is a critical component of the electrical grid in this area.

Marcella Perry: There are two storage buildings there for pole storage areas. Are you still going to maintain pole storage in both of those areas?

David Horton: No that will be moving with the facility.

Marcella Perry: That will be gone so there will be more room for snow.

Attorney McKinley: They are not actually buildings; they are platforms in which the poles are stored. They are not an enclosed building.

Marilyn Dame, Main St: We might ask NH Coop – How many feet in-between bldg. and sub-station are they going to allow the new owners and how many are they going to keep themselves. As far as the snow plowing I can tell you exactly what happens on our side of the driveway. It is plowed and goes down the banking and they come in from the right hand side of the power company and push it all onto ours as far as the driveway is concerned. As far as what goes in the back, I can't speak to that.

David Horton: The distance from this quarter of the building from the property line is 42 ft. The frontage of Lot 1 will be 173.79. The minimum of frontage required is 75 ft.

Rueben Whitehorn: If they do take the cold storage out of there and that is allowed for more snow removal, which will push it directly into the wetlands. You will be taking snow, salt, road sludge and pushing it straight down because everything from Main St. comes straight down that roadway and would be most adequate and reasonable to push it right straight into the wetlands right there. When they go between the sub-station and the cold storage right now they push that right out to the wetlands. It is such a tight lot and you have so much wetland there. You are going to have the other individuals who own the building up top being able to come down and use the access down there. If the sub-station has to be worked on the power outages you could have a flood influx of vehicles down there also, but if they remove that cold storage you are creating a direct drive into your wetlands now.

M. Perry closed the public hearing.

**Board Comments:**

M. Perry: Currently, the lot has 2.2 acres and they are looking to subdivide into one lot that is a little

over ½ acre and the other one is 1.86. This is a lot on Main St. with a shared access way.

T. Morgan – One of the tests here for the hardship and whether we think it is contrary to public interest is whether we think this is a reasonable use of the property, that is to sub-divide it into a piece of property which has a sub-station on the back of it and some unknown commercial use on the front of it. I think that if we find this is a reasonable use then we can probably find there is in fact a hardship here because of the wetlands and there is no other way to accomplish their goals. A lot of the questions hinges on whether the board thinks this is a reasonable use of the property.

M. Perry: In my opinion, if this is approved, they will to go to the Planning Board with the site plan review for any subsequent type of business or home, or whatever is proposed for the front lot; there will be requirements at that point and time. There are businesses that don't have a lot of traffic, so at that time it would be looked at.

Angela Bystrack: I think the uniqueness of the property is that they have sufficient road frontage on 28, but it is not usable for a driveway access because of the considerable wetlands and we have a 25 ft. buffer added on top of that. They can't expand to meet their needs because of the way the configuration is and the size of the wetlands and there is no room left to accommodate their needs as their business is grown and they need more trucks.

David Schaeffner: Regardless of their building, what the needs are for their building is just to keep that as a right-a-way as it has always been used and sell off their building or whatever they do with that building, even if they stayed there. Just asking to sub-divide it, that is going to stay a right-a-way, just to access that back as it always has. I don't see that there are any changes. I think it is a good idea to get the cold storage out of there. You have arsenic, creosote, which impact the wetlands far more than more road salt in my opinion and I am not a professional, but there have been studies done.

S. Vaughn: I agree there is definitely a hardship of the wetlands in allowing them to expand. It would be more beneficial to get those poles out of there with the treatment they use on them.

### **Deliberations**

T. Morgan: The variance will not be contrary to the public interest.

Reason: The public interest here has to do with establishing minimum frontage requirements to keep from crowding the town, but we are not changing the frontage requirements here. We are simply dividing a piece of property that exists in its use with a minimum frontage.

Agreed by all board members.

Spirit of Ordinance – The request is in harmony with the spirit of the zoning ordinance with the intent of the master plan and with the convenience, health, safety and care of the districts within which it is proposed.

Reason: At the present time the lot in the back is used minimally unless there is a power outage and they have access to that. Presently they use the right of way to access back lots therefore there would not be a greater impact on safety or health. As far as Lot #1 it all depends on what is allowed to go in that lot as far as traffic and safety and that would be discussed if it went before Site Plan Review.

Agreed by all board members.

Substantial Justice: By granting a variance substantial justice will be done.

Reason: The configuration of the lot makes it difficult and creates a hardship. It will be beneficial to the applicant by allowing the lot in the front to be better utilized than it is.

All board members were in agreement.

Value of Surrounding Properties: This request will not diminish the value of the surrounding properties.

Reason: Granting this they will be able to go forward and the Planning Board will decide whether they will be subdivided. That way they will still be able to keep the sub-station and there will a commercial use out front. There is already a commercial business there. Nothing will really change. Actually having a front building may increase the value of the surrounding properties. The building has been in some need of repair and a new business in there would bring more value and appeal. It would be greater diminished if the building was left abandoned and in disrepair which that could be their option as well.

Agreed by all board members

Area Variance Request Criteria:

- 1) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.
- 2) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible or the applicant to pursue, other than an area variance.

Reason: With the wetlands on the backside of the property, the variance is necessary to enable use of property. They don't have enough frontage on 28 and they don't have a cut rate on 28 so the only way in is the way they are going in now which means that the benefits cannot be achieved by another reasonably feasible method. Because of the unique lay of the land and the wetlands and no access a variance is needed and the benefits sought will be beneficial to the applicant and the community.

All board members agree.

M. Perry read the following statement:

Based on the above analysis, special conditions do exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hardship, input from all the board members is that you have

the variance.

Monica Jerkins read the following case:

**Case Z06-19**

**Map 11 Lot 25-45**

**Area Variance**

**Dean C. Puzzo & Theresa A. Puzzo**

**Lakewood**

**Drive**

**Trustees for the Puzzo Revocable Family Trust**

Application submitted by Arthur W. Hoover, Esq., on behalf of the property owners Dean C. Puzzo & Theresa A. Puzzo, Trustees of the Puzzo Revocable Family Trust, seeking a Variance from Zoning Article 300, Section 328 B – Height Restrictions – to construct a residential structure with approximately 11% of the home's total area 11' above the 35' height restriction. The property is located within the Residential Rural Zone.

Marcella Perry and David Schaeffner recused themselves from this case.

Tim Kinnon appointed Paul Monziona and Stephen Hurst to sit in on this case.

Motion made by Tim Morgan that we accept Case Z-06-19. Paul Monziona seconded the motion. The motion was carried.

Arthur Hoover, attorney in Alton, introduced Dean Puzzo, one of the owners, and builder, Dan Martin of Sharon Homes, who were available for questions: By way of background, Dean and Theresa currently live in Merrimac, NH. They purchased property in Alton on Lake Winnepesaukee a few years ago. Since purchasing that property on the lake they have decided to make Alton their place of residence. They purchased this lot, which is the subject of this petition on Lakewood Road, with the intended purpose of constructing their primary home on the property. They have already placed their home in Merrimac on the market for sale and they have made arrangements for their three children to be enrolled in the Alton School system. They plan on keeping the property on the lake for family recreational purposes.

The point here is that they have made a commitment to be residents in the community and they have made another commitment to construct a high quality home in the community. They have designed a home with approximately 6,000 sq. ft. of living space. Septic design system has been approved by the state of NH for six bedrooms and Mr. Puzzo has that. The home will be a quality well-built home with no negative impact on any of the surrounding neighbors and will be ascetically pleasing. The lot is an odd shaped lot; it has 260 ft. of frontage on Lakewood Rd. and a rear lot of land of approx. 30 ft. The home is designed to be placed toward the rear of the lot, making it less visible from the road into the surrounding property owners, is on the mountain side of Lakewood Rd., not on the lake side. You will not be able to see the home from Alton Bay. Mr. Puzzo has a little bit of engineering background and he has done some work and he thinks that if you were on Rattlesnake Island and knew exactly where to look you might be able to see the property. Pictures were passed out to show it is a flat lot; a portion of the roofline will be higher than 35%. The living quarters of the building will be on the first two floors, all of which will be less than 35 ft. The attic area is the area that will be

above the first two floors and most of the attic area is less than 35 ft., but a small portion of it is slightly above 35 ft. That portion equals approx. 11% of the total area of the home and is approx. 30% of the total roofline looking from left to right. You will see on the material not the entire portion that is above 35 ft. is in fact 11 ft. above because it slopes. The height is the result of the pitch which is a 14 ft. pitch and Mr. Puzzo can explain that, as can the builder, and anything lower than that would create some problems with spreading it out and would not look aesthetically pleasing and also would make it difficult for snow build up, etc. No portions of the living area in the home will be higher than 35 ft. The living space in the home will be the first two floors. The third floor will be an attic, and it is the portion of the third floor that will exceed the 35 ft. and the home will not be visible from the lake. In fact because of the way they plan to build it, it won't even be visible from the road or from the surrounding properties.

The Puzzo's intend to install an automatic fire detection system in the home. Although it is not required, they want to do that. That will be wired to wherever the town wants it to be wired to. It will be an electronic monitoring system with heat sensors. There will be no combustible materials in the attic area. There will be smoke detectors and everything else that is necessary for fire protection.

The Zoning Ordinance involved is Article 300, Section 328B, provides that the maximum height of a building is 35 ft., measured as the vertical distance from the average finished grade to that portion of the lot covered by the building to the highest point of the roof. I take that you do the average grade and you measure the top point of the roof. That is your two lines. The Puzzo's estimate that a portion of the roof line as I indicated earlier will be allowed 6 ft. higher and a smaller portion will be 11 ft. higher than 35 ft. The total area of the building that will exceed 35 ft. is approximately 11% and about 30% of the total roof line will be above the 35 ft. limit. One of the reasons we are in this situation is that there is a walk out in the back part of the building and because the grade is reduced because of the walk out, it reduced the average grade and that sets the figures a little bit in kilter. This is the ordinance from which the Puzzo's are requesting relief. Attorney Hoover stated that he has been in this business 41 years and thinks this may be the first time he ever requested a height variance so he did try to figure where did the 35 ft. come from. It appears that the history concerning the 35 ft. limitation is grounded in safety issues. It is a common dimension adopted by a number of communities in the area, and apparently it was adopted in recognition of the fact that initially fire department apparatus couldn't get much higher than 35 ft. It also is reflected in the BOCA code and of course the towns adopt the BOCA code and that is how you arrive at that. This 35 limitation was adopted and initiated prior to some of the modern building techniques and the use of quality fire resistance material. I am sure you all realize home buildings/residences have become large and they are now constructed differently than at the time the 35 ft. limitation was adopted. The living area of homes is now significantly larger than previously had been the case. Homes that are larger have a steeper pitch and more aesthetically pleasing. Attorney Hoover asked the builder, Dan Martin, to comment regarding his experience in building large upscale homes and he can comment what his finding has been.

Dan Martin, Sharon Homes: Sharon Homes specializes in custom homes. It is an important point because we rarely get into conventional homes, colonial, etc., more the innovative architecture, a lot of European designs in the north, high roof pitches. That combined with some of the changes that have happened over the years, again to reinforce what Art was saying since this ordinance was put in

place there have been some significant changes the way homes are built. It used to be very common to have a 7 – 8 ft. ceiling height. Now, if I build a high less than 9 ft. it is very, very rare; sometimes 10 ft. The roof pitches are way higher than they used to be for various reasons, a lot of which are architecturally related with the European designs. I think an important factor that has had a big impact on this height restriction is the quality of lots these days. Again, years back the lots were much better, flatter and easier to work with. That issue regarding walk-out basement, although an advantage for the home it is a plus to have one, but it has a real negative effect on this particular ordinance and really kind of sets this formula askew I think. I have been doing this my whole life, built hundreds and hundreds of homes, and I have never been involved with one that had a variance for a height problem. Interestingly enough, when this came up and I mentioned this to Dean, I said I know I have built homes that are higher than 35 ft. and we have never had this issue before, so what do you do get a variance or do you build it. Dean said, “No, we will go get the variance” so he is being very consistent in his approach to doing things right. I went back and did some research of some of the homes I have done of late and I couldn’t find one that would qualify for this particular ordinance. I think it is a matter of the ordinance probably being a little bit antiquated at this time to today’s standards. If I am doing homes that are taller than the limit, I am sure that most other people are too if you did the math and checked it out.

Attorney Hoover: Other communities in the area, in dealing with this issue, have different ways of addressing the height limitation. The maximum height limit in Alton is 35 ft. However, in Alton, you do have exceptions. Those exceptions are permitted under a special exception provision of the ordinance and those exceptions deal with a number of specific situations including church steeples, towers, also ornamental towers and cupolas. If you look at what we are talking about here is something that is decorative in the nature of a cupola or an ornamental tower because it is attic space. There is no living area in there and it is there primarily because it compliments the house and to accommodate the pitch that is required. The point is that for safety purposes, a steeple, tower or cupola that is higher than 35 ft. is not any safer than an attic which is also in excess of 35 ft. where there is nobody living in there and it is an empty space. It is worth noting that if this building were only 35 ft. in height, we wouldn’t have to come to the Zoning Board and in this event there would be no requirement that we install this automatic fire detection system which we are voluntarily doing primarily because the house will be valuable and the Puzzo’s want as much protection as possible. It certainly wouldn’t be required if it was a residential home of 35 ft. or less to install a sprinkler system.

I have read the comments of the department heads and I want to address those from the Fire Chief and also from the code officer. The Fire Chief notes seven items in his report that is in your material. After reviewing, the Puzzo’s have determined that they can eliminate the problems 1-6 pretty easily by just doing the driveway so that the fire trucks can access the front of the house either on a circular driveway or a portion of the driveway which will bypass the garage which seems to be one of the issues raised by the Fire Chief. He was concerned that he couldn’t get close enough even though he has the appropriate ladder height but he couldn’t get close enough to the main structure of the body to do that. In talking with the builder and Mr. Puzzo, he certainly is prepared to adjust so it would not be a deterrent that the fire truck could reach the front of the building and would be able to access the higher areas of the building. Also, since the attic area above is primarily decorative, there are windows in it and they can be easily broken which creates a vent, which I think, was another issue



that the Fire Chief had. If the buildings are only 35 ft., of course there would have been no comments from the Fire Chief and we are grateful he made the comments particularly about noting the inability to get to the front of the building that the Puzzo's are prepared to address as that no longer is that a stumbling issue. The code officer's only comments deal with the possibility of setting a precedent and I point out that each petition must be addressed separately on its own set of facts.

The decision of the Zoning Board with respect to a presentation made to it is not binding upon the board with respect to future applications that also must be judged on their own individual merits. In this particular case, the board is entitled to take into consideration the shape of the lot, the access to the structure, the visibility of the structure, the pitch of the roof line and the amount of roof area that exceeds 35 ft. which I indicated in this area is a small portion of the total roof. It is doubtful that any subsequent application would meet the same set of facts. The Puzzo's are required to submit their building plans to the Homeowners Association. Those of you who are familiar with the development up there recognize the homes are large, well built. The Homeowners Assoc. does review the architectural designs. We can represent to you the association has no objections to the building being as high as projected and what we are requesting a variance for. Further, we have consent from the property owner, Bradford Jones, who incidentally is the only property owner who is affected by this. He is the one directly across the street, as the properties on either side of the building are either owned by Mr. Puzzo or by the association that already has consented to it.

In addressing the criteria for the variance and keeping all of what we have discussed in the background, note that in your application you deal with the most difficult one right on the top which is the hardship issue. In this particular case there is an area of dimensional variance we are requesting and the three criteria that must be met, and the first is the area of dimensional variance is needed to enable the applicant's proposed use of the property given the circumstances of the property. The real issue in this case concerning the property is the configuration of the lot. It is not a rectangular lot, it is narrow in the back and wide in the front and to keep the building away from the road and away from the visibility of the neighbors, you have to position the building to the rear of the lot which creates the necessity of a steeper pitch and that is in order to accommodate the design of the building that they are requiring they have a roof area that a small portion of which exceeds the 35 ft. The purpose of that and the reason they want the building placed there is that it is better for everybody else in the area. It takes it away from the road and it makes it invisible from just about everybody else.

Second is that the benefit sought by the applicant cannot be achieved by some other reasonably feasible method other than an area of dimensional variance and the benefit sought here is the building that has a small portion of the roof in excess of 35 ft. and the only way we can achieve that benefit is through a variance.

The third is that the variance under the hardship issue would not injure the public or private rights of others. It just can't because there is nobody that can see it. It is not visible from anywhere else. There are no view or safety issues that we are aware of. It is an approved sub-division.

The second issue criterion for a variance to the specific request is the minimum variance that will grant reasonable relief to the owner and is necessary for such reasonable use. The minimum

variance that is requested is the one we are asking for because no other variance will do. It is the only one we can get that will make this work and it is necessary for the reasonable use of the property because without it we can't construct the building to the rear of the property and do the things we would like to do and make it aesthetically pleasing and also conform to what the Homeowners Association has already approved.

The variance request is in harmony with the spirit of the Zoning ordinance, the intent of the master plan and the convenience held safety and character of the district within which it is located. The purpose of the master plan and the ordinance is to minimize the impact and surrounding properties. You don't want something sticking out that destroys the harmony of the neighborhood and also to ensure that structures are safe and fire issues can be reasonably addressed. In this case the intent and spirit of the ordinance and master plan are met and if the variance is granted the applicants will be able to construct the home as designed. All abutting property owners will benefit, as the home construction will be to the rear of the lot providing protection to other property owners and from the roadway. There will be no view obstruction. Further emergency vehicles will be able to access all of the building structure. There is no downside to anyone who would have any interest in this property.

The variance request is not contrary to the public interest because the public interest with respect to this ordinance again revolves again the impact in surrounding property owners, the obstruction of the view and safety issues. None of these issues are present in this particular situation, therefore the variance would not be contrary to the public interest which is we want safety buildings, we don't want to have an eye sore and all of those things that deal with 35 ft. restrictions. They don't' apply in this particular case.

Substantial justice will be done if the variance is granted because the applicant will benefit, the town has reasonable access to the property for fire apparatus and protection. The safety issues are well covered. There is no view obstruction. There is no detriment to the surrounding property owners. There is absolutely no reason why this, in my judgment, that if this was granted, that everyone would benefit and therefore justice would in fact apply across the board, to the town, the property owners, the Homeowners Association, as well as the Puzzo's.

The variance request will not diminish the value of the surrounding properties. First of all, both the Homeowners Association that is created for the protection of the surrounding property owners, they have already agreed to it that it won't or they wouldn't have given their consent. The abutting property owners have already agreed to it. It is going to be a high quality building and will only have the impact of increasing property values and not decreasing it.

The Puzzo's are hopeful of constructing this large quality home which will be aesthetically pleasing and which will not have any adverse impact on any of the surrounding properties. Further, as I have indicated the home will not be visible from the lake and there would be no view issues involved in order to accommodate the home they wish to build. As I indicated earlier, the height restriction is in many ways an antiquated limitation, although we understand the reasons for it. We just feel under certain circumstances those reasons may no longer apply. The safety issues that were traditionally part of the height restrictions are very well addressed in the proposal given the equipment available to the fire dept. and the accessibility to the structure. This is a situation there would be no adverse

impact on anyone and health and safety matters are well addressed.

Fire Chief, Alan Johnson: I had some questions originally when it came out with the accessibility to the building. As far as life safety goes and in regards to Attorney Hoover's comments about the 35 ft. height requirement, the reason that was put in was because of the fire service and it is still listed in the latest codes that the town has adopted, not only the Boccia code, but the national fire codes and that goes to a 30 ft. elevation. The issue that we have with the communities and the larger homes we are seeing in the community, we are still a volunteer dept. and our ladder truck only reaches 75 ft. The driveway where it was designed originally did not allow us access to the home. Some of the questions that I have raised you have before you and while sitting here I have developed a few more. The pitch of the roof of the garage and what is the garage area over the roofline or over the garage itself going to be used for? That is still a 1412 pitch, correct? If you take a ground ladder or an extension ladder and you extend it on that 1412 pitch, you still can't reach the main roof because it is going right up over it because it is going to follow the ridge line.

Mr. Puzzo: There is a gable in the front. There is a gable on the garage door side and there is another gable in the back. There should be the windows of egress. It is on the second floor.

Chief Johnson: That is what I am not seeing is the gable on the front side in the drawings.

T. Kinnon: Do we have a drawing showing all these details on file?

Dan Martin: I have some elevations looking right into the garage door in the back.

Chief Johnson: There is a dormer where Attorney Hoover said we could vent windows and vent out. As you know smoke and heat rises, goes to the highest part of the building.

Mr. Puzzo: There is a slight correction. There is a dormer at the end.

Chief Johnson: That doesn't show on the drawings we have. We did not get that elevation.

Dan Martin: I might say all living space certainly do have egress windows and are on the 1<sup>st</sup> or 2<sup>nd</sup> floor. Nothing above is on the third floor attic space.

Chief Johnson: Regarding 3<sup>rd</sup> floor attic space, you are showing a dormer window which is basically in your attic space just below the proposed 35 ft. roof line. You are showing what I call your front elevation for a lack of a better term, you are showing that dormer window in the attic space but you are saying that is not going to be used as an attic space.

Mr. Puzzo: It is purely decorative. When you are on the 2<sup>nd</sup> floor like people put some trade ceilings in that would actually preclude you from finishing off the attic because if you are walking in the attic you have this big hump sticking out in many sections of the house.

Chief Johnson: Use of the attic space, is that going to have heating or air conditioning units in it?

Dan Martin: Air handlers, yes. All the heating combustion will be in the basement.

Chief Johnson: You are still running some sort of mechanical equipment in the attic space?

Mr. Puzzo: Yes.

Chief Johnson: Is the attic space going to be insulated? If so, what type of insulation?

Dan Martin: The insulation in the 2<sup>nd</sup> floor ceiling added floor at this point is presumably fiberglass insulation.

Fire Johnson: As far as a fire alarm system goes, that is up to you – it is your choice. I look at it as a safety issue and I have been in the fire service in the state of NH since 1968, so I am not new to it. I was full-time. I used to be involved in code enforcement for the City of Rochester so the issue I look at is life safety. We are volunteer dept. here. We don't have all the benefits of a full-time paid dept. and sometimes we don't have the apparatus of a full-time paid dept., an IES snorkel or an articulating bucket truck or tower truck. So we look at what we have for issues and with our manpower response, without being able to get the ladder truck to the front of the building to do a life rescue if that is so needed or to be able to reach the roof line to do a trench cut vent all the way to the roof line to the 2<sup>nd</sup> floor ceiling, that is why I am concerned about access to the building itself. On the back side if you stay with that roof line as it is you are going to end up with 54 ft. of direct space from the walk-out basement to the ridge line. That exceeds all of our extension and round ladders that we would be utilizing in the back of that building so we are limited at that point in time to just the front of the building being laddered. So without seeing an elevation drawing of the back I don't know where the bedrooms are or what we have for a life safety issue on the back or egress windows on the backside of the house.

Mr. Puzzo: All the bedrooms would be on the 2<sup>nd</sup> floor, not in the attic and we would make sure we meet all the egress on that. We would like to put some kind of a driveway that extends to the left of the driveway so you can actually pull your truck right in front of the building. The whole front yard lot will be very flat so as you come in the driveway I think there is a 2 ft. grade as you gradually come to the front door, so you could drive your car right off of the driveway to the front door on the grass. We would go so far if we had to actually pave to the front door, maybe put a little circular driveway, we could do that too.

Tim: Do you have a drawing that shows the elevation on the backside? Does that have any dimensions on it?

Mr. Puzzo: Yes.

Paul: If the driveway issues were addressed such that when it is finished the fire dept will be able to get a ladder truck into that area in front of the house in order to have access to the ridge of the roof as proposed, would that satisfy your concerns with regard to any life and safety issues.

Chief Johnson: It would, as long as we can get the ladder truck to vent the heat, to open that roof up

or affect a rescue out of the second floor if we needed to, or put our own people in to do whatever we needed to do. Hopefully, it never happens and we never get to that point, but we need to make provisions for it, and I guess my only other question would be how far away from the house are we looking at, and I think that is something that we could work out and look at it if there was access granted or we could get access around the front of the house. As far as the alarm system, it is to your benefit to put a fire alarm system in. I would not recommend putting smoke detectors in your attic space because of the dust from the ventilation systems.

Mr. Puzzo: In my current Merrimac home we have the 24 hour monitored system and we put heat detectors in all the attic spaces because there was some issue about putting smoke detectors in.

Chief Johnson: 190 degrees fixed temperature work very nicely in the attic spaces. Smoke detectors do not, especially if you have a mechanical unit in there that is creating dust and blowing dust around your HVAC unit lines, so that is something that would be an issue.

Tim McKinnon thanked the Chief for coming to the meeting.

Angela Bystrack: Would all the safety issues would be addressed with the configuration change on the driveway, is that what you are saying, or would there still be safety issues that are of concern for the dept. personnel?

Chief: I don't think there would be further concern. By us getting access to the building it is going to facilitate what we need to do as far as fire protection and the way the driveway is set up it will allow us to get an ambulance in. If we can work out some of these issues, including the driveway, I think we can work through it.

A. Bystrack: The decorative windows in the attic, they would be beneficial to fire personnel?

Chief Johnson: No, heat and smoke inevitably rise and go to the highest point. He is looking at a decorative window. Whether it opens or not it really doesn't make any difference to us because we are going to go to the highest point of the roof if we have to remove that smoke.

Tim McKinnon: Are there any more questions:

Tim Morgan: Mr. Puppo, on your application it says for Map 11, Lot 25-45, and the map we have been supplied with that shows the site shows Lot 62.

Monica Jerkins: If you look in the history of the parcel on the planner report, Map 11, Lot 25-45 is a lot in Lakewood the state sub-division recorded in 1988. On the recorded plan the lot was labeled Lot 62. It, however, has not been assigned that number by our assessing dept.

T. Morgan: Mr. Hoover, I wonder if you could elaborate for us on your hardship lot configuration. I missed part of that.

Mr. Hoover: To keep the home away from the road so it is not visible so it is more pleasing to the

neighborhood, you have to put it to the rear of the lot. The lot gets small, your house crunched, the pitch gets steeper. That is what it amounts to.

P. Monziona: You said a number of times that the portion of roof for which you are seeking a variance about the 35 ft. limitation in total comprises I think you said about 35% of the total roof line.

Mr. Hoover: It is about 28% from left to right.

D. Martin: If you are looking just from the street, one dimension, it is like 28%.

P. Monziona: If you are looking at this driveway elevation, this portion which is the highest is even less. What percentage is this portion of the roof?

D. Martin: The little part is probably more like 5.

P. Monziona: It says 11% and 11 ft. to the highest. This next portion which is above the room line is how many feet above it?

D. Martin: I estimated that be on scale somewhere between 6 and 7 ft., but I don't know for sure.

P. Monziona: So you are really asking only 6 or 7 ft. on that percentage and 11 ft. on that smaller percentage. I am just trying to understand on what we were granting if a variance were granted.

Opened up to the public for those in favor. There was no one speaking in favor.  
Opened up to opposition to the application. There was none.

Mr. Hoover: Thank you to the board who handled this very well. I want to thank the chief for his input. I spoke to the chief briefly about this issue without mentioning names and his input was very helpful in working with Mr. Puzzo in putting together the design.

Tim McKinnon closed the public portion of the hearing and the board went into deliberations.

P. Monziona: My primary concern after hearing all of this was the fire safety issue and particularly after reading Chief Johnson's written communication and his questions, but I think that concern has been satisfied here by the discussion and the chief's input as far as how it could be remedied if the driveway were designed in some fashion to accommodate. My question would be as we deliberate and reach the input if the variance would be granted could we make it conditional on the applicant's satisfying any of the requirements of the Alton Fire Dept. as discussed here.

Tim McKinnon: We have attached conditions in the past and I personally don't see any reason why we couldn't attach a condition in this case, particularly in light of the exchange between the chief and the applicant. The applicant quite voluntarily discussed options with the chief.

Tim opened up the public portion momentarily for a question A. Bystrack had for the builder.

A. Bystrack: What would the roof pitch be if the whole house was met at the 35 ft. line?

D. Martin: We didn't do that calculation specifically, but we discussed it and we figured it would be around a 6 pitch which is fairly shallow. It would be disastrous for the architect.

Angela Bystrack: What is the pitch on the other part of the house that is within the 35 ft.?

D. Martin: 14, but that is starting from the first floor.

Angela Bystrack: So you are saying it wouldn't be desirable because it would make the house look funny.

D. Martin: Very. Then at some pitch you start getting into snow loading issues where you starting approaching equivalent to the flat roof, and now all of a sudden those 2 x 12's won't suffice because it is over such a large area and there is a lot of different roof lines creating a lot of valleys, trouble spots. These roof systems we are building these days were not invited in New England, and yet we are doing it here. So you would have a lot of problems within the shower of the pitch, the more problems it creates.

Angela Bystrack: Could you just tell me why this section of the house is up so much farther than the rest of the house? What causes that?

D. Martin: It is really the footprint dimensions of the house that is the widest area front to back and width, and the wider the building goes, the higher the roof goes. It is hard to tell from your drawings. So this section of the house protrudes forward?

D. Martin: That is correct. It would be the deepest part of the home. If we had the room in the back of that lot to stretch that house out another 10 ft, make it a little narrower front to back, then we could maybe adjust that ridgeline a little bit, but we are confined to the width of the lot.

Tim Kinnon opened the meeting to the rest of the public for those in favor or opposition again. There were none. T. Kinnon closed the public input.

Tim Morgan: I have a concern that regardless how antiquated our ordinances might be it is not really up to this board to decide whether 35 ft. is a proper height or not. That is something that the town has written into its ordinances and something that we should give deference to. I am also concerned that in this particular instance we have backed into a hardship that is we have decided we want to build a house at a particular height. In order to have that height and not make it visible to the neighbors we have to back up to a point where the lot is narrow and that causes us to have a steep roof line, so we have kind of created our own hardship with a desire that is driven by desire for a design.

T. Kinnon: I tend to agree with your thoughts on that, but what I see from this is an applicant that wants to keep the structure out of site from many of his abutters, which is contrary to what I have seen a lot of around town. People put these enormous structures and want them right out in front for

everybody to see. I do understand the applicant's point with the contour of the property too. In order to have a walk out basement, you excavate behind it and you lose the benefit of that soil that brings it up within 2 ft. of the foundation which in this case if they didn't have a walk out basement, they wouldn't be here tonight. It does have a lot to do with the contour of the land and personal property owner's rights to try to make the use of their own property.

P. Monziona: I agree with T. Morgan that we are not here to determine whether that 35 ft. ordinance is a good one or a bad one. We are here to enforce it and to grant reasonable variances from it. Since it also provides in such instances as a cupola or other decorative structure on a building, an exception can be considered and granted, and given the somewhat limited area of what is being requested and the use of it, it is almost a kin to a cupola type circumstances Attorney Hoover describes. I think it is within the spirit and requirements of the ordinance when one considers that.

T. Kinnon: I think it does fall within the spirit of the ordinance with the consideration that the applicant is willing to work with the Chief of the Fire Dept. where the 35 ft. height limitation, the main purpose of that was safety and where the applicant is willing to design a landscape area that would support a ladder truck. In that instance it falls within the spirit because that is the spirit.

P. Monziona: I think safety and also the idea of staying within the tone and harmony of not having these monstrous structures being in view and I think they have done a good job of dealing with that, and in trying to deal with that is how they got backed up on the lot. I appreciate the fact that it is not something in view from the bay or anything else and I think it stays in harmony with the master plan.

T. Morgan: So would it be the thought of this committee that we would have some sort of requirement with regard to the safety issues.

P. Monziona: I would think so and as we go through our worksheet, we could maybe include that.

T. Kinnon: If this were to be approved I would definitely want to see a stipulation in the motion that requires the applicant to work with the Chief of the Fire Dept. to come up with a design that the chief is satisfied with.

Angela Bystrack: I have a concern that the home will be a three story structure and that the intent of the ordinance was not to rise above that and where it doesn't interfere with the use in a 6,000 sq. ft. home, and it being of no visual benefit to gain a view that he is being taxed on, and it not being living space, I don't know if I find compelling evidence to set aside the 35 ft. limit. I find it bigger than a cupola because it takes up the 11% of the total roof, just that one portion, and then you have the other portion, so I am not quite clear as to how much total we have if you add both portions together that would be above the 35 ft. maximum height level.

Tim: My only thought on that is if you look at the drawing in front of you, this portion that is over the height restriction is only over the height restriction from the opposite side of the structure. From this side of the structure it is within the 35 ft. height so if the land was completely flat and there was no walk out basement, they could still have this structure.



Angela Bystrack: It is not very clear here. So basically we would be cutting it in half here and it would be only the rear portion that would be over the 11? So from the front it would be in line with the rest of the homes that are in that particular area that meets within the 35 ft.?

T. Kinnon: I think so. If you drive up Lakewood Drive, a lot of those homes which on both sides, they are on somewhat steep slopes and some portions of those structures are obviously over 35 ft. easily. So I think in that respect it does fit with the neighborhood.

T. Morgan: I would like to be certain of that. The calculations that were supplied here for calculating the average grade were cut off and I haven't done the math. Could we ask the applicant what the height is actually from the front grade of the driveway?

Tim Kinnon: Public portion will be opened up again. Would applicant please come back and address Mr. Morgan's concern.

T. Morgan: Seen from the front from the driveway view, what is the height from the front landscaping to the peak of the roof?

D. Martin: From the driveway, if you look at the diagram, I had to add 2 extra ft. for the average, so there is a line that shows 35 ft., that line is 33 ft. from the front lawn, but then what you have to do, on the bottom it should say that I have to artificially make it pretend it was another 2 ft. lower because of the average grade around.

T. Morgan: So the average grade only has a 2 ft. impact on the calculations, even with the 65 ft. of walk out in the back?

D. Martin: Yes, because the area around the house that is walk out is  $\frac{1}{4}$ , so if you have a ft. basement,  $\frac{1}{4}$  of that is 2 ft. If I expand the walk out basement to get larger and larger and larger, for example it is 50%, then I would have to artificially say that I am losing 4 ft. on that 35. We purposely tried to keep the walk out as small as possible so that it was only 25%.

T. Morgan: So seen from the front you do actually see a variance from the 35 ft. height. It is not totally caused by the math.

D. Martin: Yes.

Arthur Hoover: I think Ms. Bystrack stated that the area exceeded 35 ft. was 11% plus the additional amount. Is that not correct? The whole amount that is over 35 Ft. is 11%.

D. Puzzo: Yes, if you would take the worse case area and assume all the area that is above 35 per the way we have to calculate, meaning we have to take the 2 ft. off, is 11% of the total roof line.

Arthur Hoover: It is not just the high peak that is 11%. It is all of it that is over 35 ft.

Board Discussion: After reviewing the petition and after hearing all of the evidence and by taking into

consideration the personal knowledge of the property in question, The Alton New Hampshire Zoning Board of Adjustment has determined as follows:

**Public Interest:** the variance will not be contrary to the public interest. It will not injure anybody's public interest in property. It doesn't block anyone's view. There are no abutters showing up to speak on the negative. The applicant has agreed and the Fire Chief has mentioned that with certain concerns addressed it would not be contrary to public interest.

**Spirit of the Ordinance:** The request is in harmony with the spirit of the Zoning Ordinance as long as the stipulations that Chief Johnson has stated are met.

**Value of Surrounding Properties:** The request will not diminish the value of the surrounding properties, but will enhance it.

**Hardship – Boccia – Area Variance Request Criteria**

- 1) An area variance is needed to enable the applicant's proposed uses of the property given the special conditions of the property.
- 2) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. The zoning ordinance requires a variance for a residential structure over 35 ft. and it would not be feasible or reasonable to do any other alternative. The applicant is willing to work with the Fire Chief and to have a landscape design.

**Board Discussion:**

- 3) Based on the above this is conditional upon the applicant acquiring the approval from the Chief of the Fire Dept for a landscape design that would support a ladder or any other concerns of the Fire Department.

A motion was made by Paul Monziona that the application for Case Z06-19, Map 11 Lot 25-45 Area Variance, Dean C. Puzzo & Theresa a. Puzzo, Trustees for the Puzzo Revocable Family Trust, Lakewood Drive be approved as modified by the condition that we have stated and that the applicant receive approval from the Alton Fire Dept. Chief regarding landscape design and any other improvements needed to satisfy the concerns of the Alton Fire Dept. The motion was seconded by T. Morgan. The motion was carried with all in favor.

A ten minute break was held from 9:20 – 9:30 p.m.

**Case Z06-20**

**Map 58 Lot 5, 5-24, 5-25, 5-26**

**Variance**

**NSTS Development**

**Timber Ridge Road**

Application submitted by Jack Szemplinski of Benchmark Engineering on behalf of the property owners NSTS Development, seeking a Variance from Zoning Article 400, Section 412 Paragraph B(c) – Restrictions Governing Use, Minimum Lot Width, Lakefront Lots, Access – to allow for four lots to be serviced by two common driveways rather than by the required street frontage access. The

property is located within the Lakeshore Residential Zone.

Paul Monziona stated he is recusing himself from this case and David Schaeffner was appointed to sit in Paul's absence.

**Voted to accept the application.** Marcella made a motion to accept application Z06-20. Tim Kinnon seconded the motion. The motion passed.

Representing Benchmark Engineering is Jack Szemplinski. NSTS Development was also represented.

J. Szemplinski: This particular subdivision is a fairly new subdivision that has been approved and constructed in 2001. The most recent part of the subdivision was to subdivide the four lots at the very end of Timber Ridge Road. Just to give you location, Timber Ridge road is located on waterfront of Lake Winnepesaukee with some frontage being on Rum Point and also an additional frontage on Minge Cove. The property we are dealing with affects four lots fronting on Minge Cove. If you know your regulations require that any subdivision and any residential lot, a lake shore residential district as this is, needs to access its own lot through its own frontage. That is the part of zoning regulations that we have a problem with. Just to give you some idea that the Timbers, the development consisting of 27 residential lots, was 14 lots being on the water front of Lake Winnepesaukee, this on a piece of lake that is a fairly steep property. The road has been constructed around the ridge of this hill or mountain, if you will, and the purpose of that was to ensure any drainage that comes from the road does not drain directly towards the lake, but drains to a very large wetland that is located in the rear of it. The four lots we are requesting a variance for, Article 412 BC is really just one sentence on page 35 of your regulations that basically says "access to each lot shall be via the required 30 ft. street frontage. Because the property is very steep, what we would like to do is construct two shared driveways, each driveway serving two lots. The purpose of that mainly is that it would be a large amount of vegetation and grading and blasting that would be required to get four individual driveways. There are four additional shared driveways that have been approved by the Planning Board in 2001, and they have been constructed and I think there was a lot of vegetation. A lot of trees were saved because of the access of shared driveways. Getting back to your points of law:

The hardship issue is the property fronts on Lake Winnepesaukee and is steep. It is also heavily wooded. Large amount of excavation and blasting would be required for individual driveways and they would also be considerably steeper than the common driveways. The hardship is in the lay of the land and the steepness of it. There are also numerous ledge out slopes and cliffs that are located throughout the four lots. By running the driveway and starting at the lower most portion of the lots as shown on the plan, we are actually gaining about 6 or 8 ft. at the very beginning because street slopes down though it is the cul-de-sac, so by coming at the very end at the lowest portion of the lot we are actually saving over 6 ft. of elevation.

The substantial relationship exists between the general purposes of the Zoning Ordinance and specific restrictions of the property. Construction of individual driveways would result in a larger amount of tree cutting and grading than common driveways. This will be contrary to the general purpose of the Shoreman Protection Overlay District. If you will read through your Shoreman Overlay

Protection District regulations, the objective of that district is to cut the greatest little as possible, fit everything into natural Touraine and hopefully reserve the rest to protect the waters of the lake.

The variance would not injure public or private rights of others. No other abutters will be affected by this whether it is common or individual driveways. The houses will be visible from the lake, but they will not really be that visible from the road. By constructing two driveways I believe individual property rights will be enhanced by providing people with more privacy, also the future homeowners of our lots will have more privacy and less steeper are gentler driveways than if we were to construct individual ones.

The request is within harmony with spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety and character of the district as proposed. Again I will cite the Shoreman Protection Overlay District by preserving as much vegetation as possible, privacy and as little grading and blasting as possible.

The request is not contrary to public interest. We believe that this request is within the spirit of public interest by gaining by additional privacy, doing a lot less grading. I think everybody would benefit and especially Lake Winnepesaukee. I would like to also point out that we did present this idea to the Conservation Commission and they unanimously voted to support the common driveway variance as opposed to four individual driveways.

Substantial justice will be done. It will allow for property development of the land where we can fit everything into its natural Touraine and minimize grading and cutting. The request will not diminish value of surrounding properties. I believe it will improve the value of surrounding properties by promoting privacy of a starting development and leaving more trees.

M. Perry asked J. Szemplinski to show the audience where the roads are in the plans.

T. Morgan – would this particular design meet the requirements of the Town of Alton's driveway design?

J. Szemplinski: Yes

T. Morgan: These properties are all currently owned by NSDS so you can put some sort of a maintenance agreement into the deeds?

J. Szemplinski: Yes

Angela Bystrack: What frontage do you have on the road?

J. Szemplinski: The smallest lot is 59.71 ft.

Angela Bystrack: What is the minimum?

J. Szemplinski: 35 ft.

Angela Bystrack: So you exceed the minimum.

Angela Bystrack: You said you have four shared driveways on the other side of Timber Ridge Road? Are they as long as these and when were those approved?

J. Szemplinski: They are probably longer. They were approved in 2001.

M. Perry opened the meeting up to the public.  
No one was present to speak in favor of the application.  
There was no one present to speak in opposition.

**Questions:**

Fire Chief, Alan Johnson: I originally raised some questions regarding this case and my biggest issue is the driveways and the accessibility of the driveways. We have some issues and yes there are shared driveways on the lakeside of the road. We have been in there before with fire apparatus for fire alarm activations at different houses and we have some real issues. If you go out there and look at the last house on the right before the cul-de-sac, there are two nice furrows in the road in the hot top and that was to skid pans on the back side of our tanker when we came in there for a fire alarm response. The access off the roads is not conducive to getting fire apparatus up there and I guess my question would be these new driveways. Could we get a school bus to the house?

J. Szemplinski: Absolutely. I think that driveway you are talking about was not even designed. It was just built. What happens there was a big dip in the road so they went through the engineer. It was designed for cars, not for trucks. About our driveways, we have 10 wheelers.

Alan Johnson: The other driveways, I have been in on a couple of the other ones down closer towards the cistern, where you have pull offs where you can pass a vehicle in there. When we went in there were boats parked in that pull off so it wasn't accessible to back up and get into. These are just some issues that I see as far as access to the individual homes. I had some questions as far as the approach and departure off of the roads looking at the slopes. In the drawing the one on your left is your shortest driveway, I believe your 700 ft. driveway for Lots 25 and 26, that comes off the end of the cul-de-sac and we have a 14% downgrade going into the house and going back up. That one looks like we should be alright coming off the road. Most of the concerns we had before most of the driveways were going up over the ledge off of the road towards the waterside.

J. Szemplinski: Also, if you look Chief, you will see the lengths of curves on those driveways. Like typically for a car we design length of curve about 30 to maybe 50 ft. These are all 150 ft. That means that the curve is very gradual so your truck will not bottom out.

Chief Johnson: The reason I brought up the question of the school bus because that is basically the length of our ladder truck. One of the other roads we were on the other side, and I am referencing the first phase of the project. That was done before I got here and we are still going through some of the houses. There were a couple of driveways that went around ledge face. The day that we were there the 10 wheeler that came out was running his wheels on the ledge face to get around the

corner. I don't remember the # of the house. As you went in down to the left and then there was a shared driveway that went off and continued down further. The pull off area was on the right hand side, right opposite the outcropping. Brian and I were up there for an inspection. A 10 wheeler came around the corner and he couldn't make that corner.

J. Szemplinski: There are 10 wheelers that have made it to every single lot.

Chief Johnson: Maybe it was the driver because I watched two sets of duals on the inside going up over the ledge crop.

Fire chief: My question is I would hope that the radius to cross these driveways so that we can get a school bus or our engine down there without having an access problem.

J. Szemplinski: These are way in access of the minimum required by your regulations.

Chief Johnson: The other issues that I have are these houses will need to be sprinkled. It is kind of sketchy trying to figure out and get the information how that original subdivision and the sprinkler systems were required, but near as I can tell it is anything that gets out in the water with the extended extra length driveways.

J. Szemplinski: We volunteered with the Planning Board during an initial phase that the long driveways will have a water sprinkler system and they do.

Chief Johnson: The other thing that is in there that didn't happen they were required to have a Knox box if they had an alarm system and those Knox boxes have not been installed. This is in the Planning Board notes. Now it is Town Ordinance. Anybody that has an alarm system is required to have a Knox box. The other question I would like to raise is a turn around in driveways. The one we ended tearing up the hot top with we ended up backing up because there was no place to turn our truck around there. We need to have some sort of access to get turned around, whether we have a parking area or something.

J. Szemplinski: One of the things we are looking at the access to the lakeside is right now fairly difficult because it is all tread, a lot of ledge off problems, there are large boulders. What we thought we will do when we get a variance for these common driveways, we start design the houses and look where the best location for the turn around is, but we do intend to provide them according to your regulations.

Chief Johnson: The other question that I have is 911 numbering. We have a Town Ordinance for 911 numbering, and we have common driveways not only in other areas of the town or shared driveways that we don't have 911 numbering. Just an example is Damon Drive. We have houses over there with shared driveways. We have 3 houses off of one driveway coming off of Damon Drive and as we drive in on an emergency response, there is no numbering as you go down the common driveway to tell you where the house is. The way the 911 number is broken down, the requirements are they have the numbers of the houses that are on the shared driveway. If there are two houses they would be 84 and 86 as an example. Those numbers would be on a sign. The town requires a 4

x 4 post at the end of the driveway with the numbering on it and there is a whole ordinance on that and then it requires another post to be at the driveway so we know. As an example, we had an individual that needed the ambulance and we could not find the house because we stopped at the first one and the man did not know his number because the numbering wasn't done. There is a couple in your division now with shared driveways that do not have the numbering as you go down the driveway. They can be on the mailbox pole at the street. To you guys it is probably a minor issue, to us it is a major issue when someone can't get an ambulance or we drove by their house. I think most of these issues are something we can work with. I have dealt with this subdivision before and they have been very receptive.

J. Szemplinski: We will be sure these driveways have numbers.

M. Perry: Homes will need to have sprinkler systems installed. Is this in all subdivisions?

Chief Johnson: No, this was something that was started under the previous administration when this original subdivision was brought up because it was an issue with the access to the buildings I believe. I also believe the developers got involved with the driveways and they volunteered to have the sprinkler systems installed.

J. Szemplinski: Yes, we offered them that and it is a great idea because the sprinkler systems will go off way before the fire dept. gets there.

Chief Johnson: Yes, it is 8 miles out there from the central station. Those were required in the original ones and that is where I did the research and I asked that they be included these houses as they were in the first phase of the subdivision.

M. Perry: Six homes with fire alarm systems will be required to meet the new Town of Alton's alarm standards. That isn't saying these homes have to have new alarms.

Chief Johnson: No, they don't. If they have a sprinkler system in there or they install their own fire alarm system then they need to install that system and meet the standards of the ordinance which requires Knox boxes for one.

T. Morgan: What is a Knox box?

Chief Johnson: A Knox box is a key box system that is unique to the Town of Alton. The keys that open these boxes, each location that has an alarm system is required to have a Knox box. This Knox box has a key to the residence, information for the operation of an alarm panel how to reset it. It has people on a call list, someone at least one of the people has to be within a half an hour travel distance from the residence. It allows the fire dept. to gain access to the building without breaking doors, without damaging the building to go in and check for smoke. It could be a haze condition, a broken water line, a hot water line has created steam in the house and set the smoke detector off because the steam will activate a some detector, and we go up to the front of the house, we have strobe activation, a fire alarm activation and it is only a hot water line that is broken, ruptured or frozen in some of the houses that are unoccupied during the winter months, and it allows us to gain

access to the building. These keys that operate these Knox boxes are unique to the Town of Alton. The Town of Gilford and Rochester has Knox systems. Their keys will not open our boxes and our keys will not open their boxes, and anybody that is required to have a box has to get an application from the fire dept., signed by the fire dept., and allows them to mail this information to the Knox Company and it a secure box. The banks have them. If you go up to Hannaford there is one at the left of the entrance going in. It is a brown box mounted on the wall. Theirs happen to be flush mount. You can get them in bronze, aluminum; you can get them painted black. It is a rapid entry system, we are not fumbling for keys and the keys are secure, are in the box and it eliminates the middleman.

M. Perry closed the public session.  
The board entered into deliberation.

Discussion:

Angela Bystrack: When did the ordinance go into place on the shared driveways that required a variance?

M. Perry: I think it was two years ago.

T. Morgan. There has been a change in the town's attitude about this and last year when work was being done on the master plan, it was suggested that we go back to what had been the policy several years ago and that is be in favor of shared driveways, but there was a period of two or three years during which the town did not care for shared driveways and I cannot find it in the paperwork in front of me now, but there was a note in here from the town road agent saying that he favored these shared driveways here and also a note from the conservation committee that they approved this particular instance because of the way it helped to a

Angela Bystrack: I know from my experience it does create a lot of neighbor dissention and disagreement when they do have shared driveways contrary to the Highway Dept.

M. Perry: When I was on the Planning Board and Zoning before, back at that time, there was a lot of issue with that, but I think that with maintenance agreements already in place that they found that because of the cuts into the land that it was much better to have fewer cuts, less disturbance. It was safer and that is one of the points Ken Roberts did make that he prefers them as long as there is something written in the deed that secures the maintenance of the roadways.

Angela Bystrack: Is there something that can be written in, not only for maintenance but for parking, because that is a major issue if somebody is entertaining and has cars parking along a shared driveway.

The meeting was opened up to the public:

Jack Szemplinski: Yes, we do have complete driveway regulations that include maintenance, proper drainage. We have an association that collects fees in case something is not done in time. It is not an ideal situation obviously, but you have to weigh a shared driveway vs. having a strip of land before the vegetation because that is what will happen with four of them.



Angela Bystrack: These driveways are 700 ft. now? They are getting longer; they used to be a shorter driveway and then a section of walkway that wouldn't require so much timber cut to access a home. Are these going into garages? Is that why the driveway needs to come all the way down?

J. Szemplinski: This is waterfront property. Obviously, people want to build on the waterfront, so that is why we have to provide access. It is not feasible to really build them at the street.

Angela Bystrack: No, I am not saying all the way to the street, but half way. Before they didn't have garage, they had cottages. These are year round homes?

J. Szemplinski: I am not sure everybody uses them year round. They are certainly suitable for year round homes.

M. Perry: I think at one point in time they looked at access way as just so many feet off the roadway and then the roadway split. I think you have to look at the uniqueness of this property too. It does behoove us to read what the Conservation Commission said. At the meeting they voted unanimously to support the NSTS development shared driveway proposal as it is much less environmentally impacting than the standard four driveways with the lot's configurations.

David Schaeffner: As long as they meet the concerns of the Chief and the driveway spec; as far as the safety equipment, slopes, I don't see a problem.

### **Deliberation**

Public Interest - this variance will not be contrary to the public interest.

### **Reason:**

It will be allowing the land to be used as the intent, and will allow the safety equipment to get down to the houses. It will be preserving some woodlands and view sheds here in the Lake Shore residential area.

Spirit of the Ordinance: 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 proposed as long as the Fire Chief's requirements are met, where 911 numbering, sprinkler systems, Knox boxes and turn around are addressed.

By granting the variance, substantial justice will be done.

Reason: The applicants are trying to reserve some of the wooded areas and the character of the land, and also have safety well in mind. They are willing to work with the Fire Chief to make sure access is readily available for the fire apparatus.

The request will not diminish the value of the surrounding properties. This is the distinction of the planning of this piece of property that they did take into consideration all of the other factors as far as safety. It is a well planned out subdivision. It enables the properties to be developed, therefore

increasing the value.

1) An area variance is needed to enable the applicants to propose the use of the way the ordinance is drafted now to have third driveways you need to have a variance from the ordinance. The benefits sought cannot be achieved by any other method reasonable feasible because of the shape and contours of the property. The area variance is needed because of the special steepness and ledge condition of the parcels. Each of them is heavily wooded and extremely steep with a lot of rock. This enables to work around that. Based on the above analysis, specific conditions do exist and result in necessary hardship

2) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

M. Perry read the following statement into the record:

3) Based on the above analysis, special conditions do exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hardship.

**Motion made by Tim Morgan, seconded by T. Kinnon. Motion carried with all in favor.**

I move that we approve the variance requested in Case 06-20 with the stipulation that there will be a turn around at the end of each driveway sufficient to handle emergency and fire equipment, that the driveways will be constructed to accept the equipment and access onto and off Timber Ridge Road be sufficient to handle emergency vehicles, and that 911 numbers be installed not only at Timber Ridge, but at each of the driveway forks.

**Case Z06-21  
Robert & Angela Bystrack  
28)**

**Map 5 Lot 72-7**

**Special Exception  
Suncook Valley Road (NH Rte**

Application submitted by the property owners, Robert and Angela Bystrack, seeking a Special Exception from Zoning Article 400, Section 451 – Rural Zone, Permitted Uses – which references Section 401 – Table of Uses – to allow a 71-site Recreational Camping Park on their property within the Rural Zone.

Because of the lateness of the hour, I would like to make a recommendation that we continue this case. Also, I would like to set another meeting date at a separate time so that we can take a look at this to make sure we have everything we need.

**Voted** to continue this Case Z06-21 on July 25 – Tuesday – 6:30 p.m.

1. Correspondence: Letter from Russ Wilson re: cell towers; Letter from Elizabeth Babcock re: cell towers

Monica Jerkins stated that the Planning Board chair feels very uncomfortable with his knowledge of the process for the joint meeting for the cell tower so he has asked to meet with Attorney Sessler and also Eric Stern, who is representing the applicant, to discuss procedural issues. Attorney Sessler returned from his vacation on July 14 and they will be meeting shortly thereafter, and then a date will be set.

**Alton Zoning Board of Adjustment  
Minutes of July 6, 2006**

**APPROVED August 3, 2006**

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**Voted to adjourn** at 10:48 p.m.

Respectfully submitted,

Nancy Pritchard  
Secretary Po-Tem