

**TOWN OF ALTON-ZONING BOARD OF ADJUSTMENT  
PUBLIC HEARING MINUTES 2019  
AUGUST 1, 2019**

**APPROVED**

**Members Present:**

Paul Monzione, Chairman  
Tim Morgan, Member  
Paul LaRochelle, Selectmen’s Rep/Clerk  
Thomas Lee, Alternate

**Others Present:**

John Dever, III, Code Enforcement Official  
Jessica A. Call, Recording Secretary

**CALL TO ORDER**

Paul Monzione called the meeting to order at 6:02 P.M.

**APPOINTMENT OF ALTERNATES**

Paul Monzione appointed Thomas Lee as a full voting member for tonight’s meeting because there was a vacant seat on the Board.

**STATEMENT OF THE APPEAL PROCESS**

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

**APPROVAL OF AGENDA**

Paul Monzione asked if there were any amendments to the agenda. John Dever, III, stated that under “New Business”, the appointment of Thomas Lee to become a regular member of the ZBA should be included on tonight’s agenda.

**Tim Morgan MOVED to approve the August 1, 2019, agenda, as amended.  
Paul LaRochelle seconded the motion, and it PASSED by a vote of (4-0-0).**

**NEW APPLICATIONS**

<b>Z19-15 Thomas W. Varney, P.E., of Varney Engineering, LLC, Agent for John &amp; Kathy Sartorelli of BMH Black Point, LLC, Owners</b>	<b>13 Potvin Place Map 44 Lot 25</b>	<b>Variance Lakeshore Residential (LR) Zone</b>
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A Variance is requested from **Article 300 Section 327 A.1.**, of the Zoning Ordinance to permit the construction of a deck within the thirty (30’) foot shoreland setback. Nearest point of the deck to be twenty-two (22’) feet to the lake.

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The Chairman read the case into the record.

Thomas W. Varney, P.E., agent, and John & Kathy Sartorelli, owners, came forward to present the case.

**Paul LaRochelle MOVED to accept application #Z19-15 as complete.  
Tim Morgan seconded the motion, and it PASSED with a vote of (4-0-0).**

Paul Monziona noted that there were two applications for the same Map and Lot, but they would be heard separately.

Thomas W. Varney, P.E., stated that this property was located more on Black Point Road. Potvin Place was a road that led onto the neighboring lot. This property was hidden by trees from the road, and you had to access the cottage by driving through the neighbor's lot. The cottage was an older style typical cottage that one would find around the lake. It had an existing deck on the front of the cottage and there was a spring beyond the driveway that bubbled year round; there was a pipe that ran from the spring out to the lake. The septic went into two holding tanks that were pumped out when full; this had occurred since 1980, but the Sartorelli's wanted to upgrade the septic system. The Sartorelli's owned property across the street where they planned on installing a leach bed.

The Variance was asking for relief to construct a deck on the front of the building; there was already a deck to the right of where they wanted to construct the new one. The encroachment went into the shoreland setback. The second Variance was for a deck off the shed.

Thomas W. Varney, P.E., noted that the encroachment area was shown in red on the plan. This deck would allow the Sartorelli's to utilize their property more, and allow them to enjoy the lake. Pictures were provided to the Board in the application packet. This deck was located in a suitable location. Architect drawings were also provided in the application packet. The land was surveyed and the boundaries were located on the plan. A proposed attached garage was indicated on the plan, but was not being built until sometime in the future. The Sartorelli's had a very large family and having more room to enjoy the property was necessary. Thomas W. Varney, P.E., indicated that Black Point Road was a private road.

Paul LaRochelle asked if the existing deck was still attached to the house. Thomas W. Varney, P.E., stated that deck had been temporarily removed, but was going to be put back in addition to constructing the new deck. The previous owner constructed a foundation under the cottage, and most of the inside had been gutted this past spring.

Tim Morgan wondered if the new leach field would be across the road on Potvin Place or Black Point Road; Thomas W. Varney, P.E., stated, Black Point Road.. Paul LaRochelle asked if the deck that was temporarily removed from the house was also encroaching into the 30' shoreland setback. Thomas W. Varney, P.E., noted that deck encroached into the setback, but it was grandfathered. Paul Monziona referred to the lakeside of the house where the nailer was located, which was where the deck used to be, and noted that the deck encroached into the 30' shoreland setback. He asked how much the deck encroached; Thomas W. Varney, P.E., stated, 6'. Thomas W. Varney, P.E., pointed out that the new deck would go 8' into the 30' shoreland setback, and was located next to the original deck. The dimensions of the new deck were 12'W x 18'L and the old deck was 14'W x 12'L. Paul Monziona noted that the old

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deck could be put back without asking the Board for any relief because it was grandfathered. The new deck was being installed in front of the large picture window, and the old deck was located in front of the sliding doors. It was noted that the two (2) decks would connect to each other. Paul Monziona thought that the Sartorelli's were actually expanding the current nonconforming deck, making the deck much more nonconforming. Thomas W. Varney, P.E., noted that the base of the deck was concrete and had wooden support posts. Paul Monziona pointed out that this deck was most likely subject to approval from DES. Thomas W. Varney, P.E., noted that the Sartorelli's needed a shoreland permit from DES for what they were proposing because they were constructing within 50'. He explained that the DES' shoreland rules allowed a homeowner to extend a structure further into the 50' shoreland setback. John Dever, III, pointed out that was an odd rule by DES by allowing an encroachment of up to 12' into the 50' shoreland setback. He also noted that if the house was located 51' from the shoreland, a property owner was not allowed to encroach into the 50' setback. Paul Monziona pointed out that the Town had ordinances that allowed grandfathered structures to be torn down and rebuilt, but it was required to be built in such a way that it was not more nonconforming if possible.

Tim Morgan asked if the steps that were being moved were made out of concrete. Thomas W. Varney, P.E., stated they were going to be placed to the right and would be reconstructed to make room for the new deck. Tim Morgan thought by moving the steps, it brought them further out of the encroachment. Paul LaRochelle thought it was unclear in one of the photos and asked if the new deck was being built over the existing stone wall. Thomas W. Varney, P.E., stated that the new deck was over the stone wall a little bit. Paul Monziona asked if Thomas W. Varney, P.E., had a chance to see the Department Head comments. Thomas W. Varney, P.E., stated, yes, he saw the comments from the Conservation Commission where they objected to the deck being built within the 30' setback, but he did not think that applied because it was a private road. Paul Monziona thought that the Conservation Commission was concerned about the effect on Lake Winnepesaukee. The Board had no further questions or comments.

Paul Monziona opened public input. No public input. Paul Monziona closed public input.

Thomas W. Varney, P.E., stated that stormwater management measures were put in place in infiltrate water runoff from the roof; therefore, the project was an upgrade. The driveway was intact and there were a lot of undisturbed trees on the lot. Paul Monziona noted that the holding tanks would be eliminated and replaced by a septic system and leach bed. Paul LaRochelle noted there was a letter of support submitted by an abutter, Bertha A. McLoon, and he wondered if she would be able to see their deck. John Sartorelli stated that she would be able to see the deck if she was looking down because her property was up higher than theirs.

Paul Monziona moved the Board onto the worksheet for Case #Z19-15.

Tim Morgan stated that the variance **will not** be contrary to the public interest. He stated that the public interest had to do with keeping untidy protrusions from houses that blocked other people's views and cluttered the lake, and that was not the case with this project. All Board members agreed.

Paul LaRochelle stated that the request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan, and with the convenience, health, safety, and character of the district within which it is proposed. He stated it was common to have a deck on a house, especially in the Black Point Association.

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Major improvements were currently underway on the property and they fell under the spirit of the zoning ordinance.

All Board members agreed.

Paul Monziona stated that by granting the Variance, substantial justice will be done. He stated that Tim Morgan articulated what the ordinance was for and why it was important. He noted that the other purpose of the shoreland setback was to protect and preserve the lake as a valuable natural resource. He further noted that DES permitted this type of project within their own setback and that substantial justice would be done. Tim Morgan thought that the advantage to the applicant far outweighed any detriment to the general public.

All Board members agreed.

Thomas Lee stated that the request will not diminish the value of the surrounding properties. He stated that between the architectural rendering, the upgrades with the leach field and getting rid of the holding tanks would add to the value of the area.

All Board members agreed.

Tim Morgan stated that for purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;
- (ii) The proposed use is a reasonable one.

He stated that the proposed use was reasonable because most of the homes along the water in this area had decks in order to enjoy their time on the lake. He pointed out that DES permitted this request, and the hardship was the position of the house as it existed. Paul Monziona stated that the general purpose of the ordinance included protecting the lake, and if it was strictly applied and prohibited the request, it would create an unnecessary burden on the applicant, and the proposed use was reasonable.

All Board members agreed.

**Tim Morgan MOVED to GRANT the Variance for Case #Z19-15.  
Paul LaRochelle seconded the motion.**

**DISCUSSION:**

**Paul Monziona requested that the motion to grand the Variance be amended to include the condition that the applicant obtain the necessary approval from the State.**

**Tim Morgan MOVED to amend his motion.  
Paul LaRochelle seconded the motion, and it PASSED by a vote of (4-0-0).**

<b>Z19-16 Thomas W. Varney, P.E., of Varney Engineering, LLC, Agent for John &amp; Kathy Sartorelli of BMH Black Point, LLC, Owners</b>	<b>13 Potvin Place Map 44 Lot 25</b>	<b>Variance Lakeshore Residential (LR) Zone</b>
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**APPROVED**

A Variance is requested from **Article 300 Section 327 A.2.**, of the Zoning Ordinance to permit the construction of a deck within the twenty-five (25') foot roadside setback.

The Chairman read the case into the record.

Thomas W. Varney, P.E., agent, and John & Kathy Sartorelli, owners, came forward to present the case.

Paul Monziona confirmed that the documents submitted for Case #Z19-15 were the same documents that would be presented for Case #Z19-16; Thomas W. Varney, P.E., stated, yes.

**Tim Morgan MOVED to accept application #Z19-16 as complete.  
Paul LaRochelle seconded the motion, and it PASSED with a vote of (4-0-0).**

Thomas W. Varney, P.E., noted that the Sartorelli's wanted to put two (2) decks on an existing shed, which was 12'W x 21'L, and would become a bunkhouse at some point in the future, but only one deck needed relief from the Board. John Sartorelli stated that this would be a space for their two (2) sons to sleep in when they visited. Paul LaRochelle thought that several trees needed to be taken down to accommodate for the deck. John Sartorelli was not sure if his contractor could build around the trees or if they had to be taken down. He noted that there was a large tree in the front, but the side was clear. Mrs. Sartorelli actually liked the natural setting and would rather build around the tree if need be. Tim Morgan thought that if the deck was built only up to the tree, there would not be an encroachment. Mrs. Sartorelli agreed and thought that they could just go ahead and to that. Paul LaRochelle asked if it was really necessary to have that portion of the deck encroaching the setback. Mr. Sartorelli stated that part of the shed laid flush with the ground, and as you went towards the back of the shed it started to drop off. He thought that he could install some stairs instead. The deck sat on top of piers and had no foundation.

Paul Monziona noted that the encroachment was within the 25' right-of-way setback. Tim Morgan asked if Black Point Road was maintained in the winter. Mrs. Sartorelli stated that the Association took care of plowing the snow. Paul Monziona noted that if the deck was modified it would not be in the encroachment. He pointed out that the Sartorelli's were presenting exactly what was proposed in their project in accordance with the pictures and/or plans submitted with their application, and that meant that the applicant was representing that the shed and deck would be in the same place. Mr. Sartorelli stated that they intended the shed to become a bunkhouse. Paul Monziona stated that the structure as depicted in the drawings needed to be built the same, and if the contractor determined that the shed needed to be torn down and they decided to put the deck on a new structure, they would have to come back before the Board.

Paul Monziona pointed out again that if the Sartorelli's eliminated the portion of the deck that encroached into the setback, they would not need a Variance. Mr. and Mrs. Sartorelli thought that they could reconfigure the deck. Paul Monziona stated they would then be in conformance. He also pointed out that the amount of snow accumulating in the right-of-way could be an issue and could potentially damage the deck.

Thomas W. Varney, P.E., stated that he wanted to withdraw from this proposal.

**The Board considered Case #Z19-16 withdrawn.**

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**OTHER BUSINESS**

1. Previous Business: None.

2. New Business:

a. The appointment of Thomas Lee as a regular member.

Paul Monziona shared that Thomas Lee was to be appointed as a regular member of the Board to fill the empty seat left by Andrew Levasseur. The Board was given RSA 673:12, I, Filling Vacancies and Memberships. John Dever, III, noted that a copy of the minutes would be added to Thomas Lee's form when he was initially sworn in. This had been done in the past with Frank Rich and the Town Clerk was comfortable with this process.

**Tim Morgan MOVED to appoint Thomas Lee as a regular member of the Town of Alton ZBA until the next town election.**

**Paul LaRochelle seconded the motion, and it PASSED by a vote of (4-0-0).**

3. Approval of Minutes: June 6, 2019

John Dever, III, shared that Jennifer Riel, the new Part Time Secretary, would be attending the September and October ZBA meetings to get familiar with the Board members, and thereafter, would be transcribing the minutes from home from a recording.

**Paul LaRochelle MOVED to approve the minutes of June 6, 2019, as presented.**

**Tim Morgan seconded the motion, and it PASSED by a vote of (4-0-0).**

4. Correspondence:

a. Upcoming Webinar for ZBA members hosted by NHMA on August 14, 2019 from noon – 1:00 p.m., re: ZBA Basics in New Hampshire.

Jessica A. Call explained that she could either send the Board members a link and they could watch the webinar from their own personal computers, or she could ask Josh Monaco, IT Department, to set up a projector and a viewing screen to watch the webinar at Town Hall. The Board members chose to receive the link.

**ADJOURNMENT**

**At 6:53 P.M., Tim Morgan MOVED to adjourn.**

**Paul LaRochelle seconded the motion, and it PASSED by a vote of (4-0-0).**

Respectfully submitted,

Jessica A. Call  
Recording Secretary

Minutes approved as amended: September 5, 2019