TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MINUTES - APPROVED
August 2, 2018, 6:00 P.M., Alton Town Hall

CALL TO ORDER

Paul LaRochelle called the meeting to order at 6:00 P.M.

Board Members Present:
Paul LaRochelle, Chairman
Lou LaCourse, Vice-Chairman
Paul Monzione, Clerk
Andrew Levasseur, Member
Tim Morgan, Member

Others Present:
John Dever, III, Code Official

APPOINTMENT OF ALTERNATES

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 LaRochelle asked John Dever, III, if there were any changes to the agenda since it was posted; John Dever, III, stated, no.

Andrew Levasseur moved to ACCEPT the agenda as presented.
Tim Morgan seconded. Motion PASSED by a vote of (5-0-0).

CONTINUED FROM JULY 5, 2018

Case #Z18-18 **Francis X. Bruton, III, Esq., Bruton & Berube, PLLC, Agent for Colchester Properties, LLC**	**21 Silver Cascade Way** **Map 39 Lot 11**	**Rehearing request regarding the denial of an Administrative Appeal** **Lakeshore Residential (LR) Zone**

The chairman read the public notice for the record.

Present was Francis X. Bruton, III, Esq., agent for the applicant.

Francis X. Bruton, III, Esq., came to the table. He stated that he had already laid out his position in the motion and the amendment, but he wanted a re-hearing so the Board had the chance to hear from an abutter. He shared that the abutter and the applicant had worked together to take two lots out of the six (one of those lots were unmerged by the Alton Selectmen), and end up with three (3) buildable lots. For purposes of DES, the six (6) lots needed to be unmerged, but the applicant was willing to deed restrict three (3) of the lots so they were not developable. He shared that typically abutters did not want lots next to them, especially if they share a right-of-way, to be involved in litigation, and neither did he.

Francis X. Bruton, III, Esq., stated that there were two (2) tracts conveyed all throughout the chain of title, Tract 1 and Tract 2, and it was Tract 2 that contained the five (5) lots. The pointed out that the courts were clear that would not create a merged situation. This was a unique case in all of the unmerger cases because he was in the opinion that he had shown all of the improvements that existed were there prior to the subdivision, and when the subdivision occurred, it created separate lots. He noted that all of the unmerger cases talked about construction or the use of a lot subsequent to a subdivision. In that instance, some of those cases were either building over a line, thus voluntarily merging the two (2) lots, building within 2" of a line, or building a garage right on the line directly pointed towards the other lot. Those were examples of subsequently constructed structures or uses after the subdivision, and in essence merged the lots, but this was not the case. The matters shown on the plan that the applicant had relied upon were recorded in 1961 and there was really no change since.

Francis X. Bruton, III, Esq., stated that at previous hearings they had shown the Board that the lots were significantly larger than the surrounding lots, so to him, he thought it was reasonable that those lots were in fact separate. He provided testimony through licensed land surveyors and an attorney that these lots were legal and under case law, then considered them to be legal lots. He stated that there was a case where a homeowner used the property line of another lot to satisfy setback requirements. He stated that he provided evidence that the DES application, which used a perimeter map of all the lots, was not based at all upon the size of the lot or anything to do with using one lot to benefit another lot. He thought that there was a distinction there. He wanted the Board to rehear the case so the abutter could describe what he had come up with, with the applicant. He thought it was a reasonable proposal.

Paul Monzione stated that this was not an unmerger case, per se; this was an appeal of an administrative decision where the town made a determination that this was one lot. This was not a situation where towns, statutes, or zoning regulations forced an owner to merge lots pursuant to regulations of law; the NH Legislature changed the law with a new statute, then people would seek an unmerger because of the change. This was a situation where the Town made a determination that this was one lot and Francis X. Bruton, III, Esq., was appealing that administrative decision.

Paul Monzione thought that Francis X. Bruton, III, Esq., was familiar with the criteria to warrant a rehearing on an application such as this before the ZBA, and he wanted to know what the criteria was and why was the criteria met in this case that the Board should even consider. He mentioned that Francis X. Bruton, III, Esq., just stated that he had an abutter, which was evidence that was not submitted initially, and now there was new evidence, and he was not sure of any grounds or criteria that stated people could come back when they find new evidence. Francis X. Bruton, III, Esq., stated that the standard for the review on an administrative appeal would either be illegal or unreasonable. The standard for a rehearing in terms of the ZBA was whether or not, in addition to those two grounds, there was additional evidence.

He was arguing in his first motion that the Board either did something illegal or unreasonable to come to their decision; he amended it properly, and had an abutter wanting to come forward and coming to an agreement with the applicant that this was how they could structure the property and it could work. In addition, the Board would hear this information on a de novo basis so they could make their finding. Paul Monzione asked if the evidence that Francis X. Bruton, III, Esq., had would otherwise not have been able to presented at the initial hearing. Francis X. Bruton, III, Esq., stated that he had not concluded his discussions with the abutter, but he did conclude them after the hearing. Tim Morgan asked if this abutter was going to appear at the rehearing. Francis X. Bruton, III, Esq., stated that he was very interested in attending. He stated that the reason why the abutter was interested was because the lots passed through a common right-of-way. The applicant suggested that the existing bunkhouse lot would be the only lot using that as access, the two lots that would be able to be developed would be only those two lots that were up top and would only have access to Route 28.

Tim Morgan stated that he read the motion for the rehearing and he thought the appellant had adequately addressed the issues under the case law. He thought that perhaps there were points that this Board should have considered that it did not, or perhaps it had made some misinterpretations of the meanings of those cited cases. He was in favor of having a rehearing on that basis. He thought that listening to the abutter would be appropriate.

Paul Monzione disagreed with Tim Morgan because he thought it was a reiteration of all of the laws and points that were made at the original hearing. He did not think it sufficiently sets forth, or demonstrates, that the Board in any way unreasonably misapplied the law, or illegally applied it; they did not misunderstand anything or had committed any error that would warrant a rehearing. He thought that the Board's determination at the first hearing was well thought out, well reasoned, and well supported by the facts and evidence, as well as the law. However, this idea that there was now an abutter heretofore was otherwise unavailable and the representation that the abutter would come in, and perhaps the abutter's evidence would somehow bare upon their decision, he thought that the Board should be in favor of giving an applicant every full and fair opportunity to present such evidence. Francis X. Bruton, III, Esq., stated that he had discussions with counsel for the Selectmen about this possible plan, so he had formulated that prior to the final hearing. He wanted to make it clear that he had those discussions, but was not able to procure a letter from the abutter until just recently. Paul Monzione was in favor of the rehearing, but it would not be based on a determination that anything that this Board did rose to meet the criteria to justify a rehearing. He thought that every applicant should be given a full and fair opportunity to bring in that evidence.

Lou LaCourse thought that everyone needed to have a fair chance to have either a Variance or Special Exception granted by the Board. He noted that the Board heard everything last time and they made their decision, but Francis X. Bruton, III, Esq., felt that the decision was misinterpreted or made in error and although he did not see it as "a second bite of the apple", he should be given the chance to try again with the new evidence; maybe that evidence would clarify something.

Andrew Levasseur agreed with Tim Morgan, Paul Monzione, and Lou LaCourse. He thought that they gave Francis X. Bruton, III, Esq., a fair chance to resubmit his information.

Paul LaRochelle also agreed with Tim Morgan, Paul Monzione, and Lou LaCourse that the rehearing should be granted.

Tim Morgan moved to GRANT the rehearing request for Case # Z18-18, which would be held on the next scheduled ZBA meeting on September 6, 2018.

Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).

NEW APPLICATIONS

Case #Z18-21 **H. Luke Mitcheson, Esq., of Mitcheson & Lee, LLP, Agent for the Rip Van Winkle Realty Trust/Marlene Adelmann-Mitcheson, Owner**	**220 Sleeper Island** **Map 74 Lot 34**	**Variance** **Lakeshore Residential (LR) Zone**

A Variance is requested from **Article 300 Section 327A., 1.**, of the Zoning Ordinance to permit the construction of a new set of stairs and deck within 30' of the waterline in order to provide a safe entrance and egress.

The chairman read the public notice for the record.

Present was Luke Mitcheson, Esq., and his father David Mitcheson.

Lou LaCourse asked if there was a plan that had all the setbacks on it, because he could not see the side setbacks indicated on the plan. H. Luke Mitcheson, Esq., stated that they had submitted plans that indicated the 30' and 50' setbacks from the lake. Lou LaCourse stated that they should have indicated all setbacks.

Paul Monzione moved to ACCEPT application #Z18-21, as complete, with an understanding that the applicant would be able to provide the missing sideline and rear boundary lines during this hearing.
Andrew Levasseur seconded. Motion PASSED by a vote of (5-0-0).

Luke Mitcheson, Esq., and David Mitcheson both came to the table. He stated that he was there to request a 30' shoreland setback in order to finish building a deck and a set of stairs. He shared that Mr. & Mrs. Mitcheson had already started building the deck and stairs back in 2015, but since she did not pull a permit for the project, John Dever, III, sent them a cease and desist letter at that time.

Luke Mitcheson, Esq., stated that when Mr. & Mrs. Mitcheson purchased the property, she started to fix up the cabin because it was dilapidated. One of the main issues with the cabin was the existing ramps and stairs from the dock to the cabin, which were also dilapidated. The project consisted of lengthening the set of stairs through a set of landings and to construct an additional deck to make it safe for people to get up to and from the property. Luke Mitcheson, Esq., stated that the project was in harmony with the shoreline, they did not cut down any trees, and they worked around the rocks.

Paul LaRochelle asked if the walkway represented in the pictures submitted with the application were current; Luke Mitcheson, Esq., stated, yes. The picture showed a real steep set of stairs that were going to be replaced. Luke Mitcheson, Esq., then pointed out the picture of the newly constructed deck and set of stairs, which showed a less steep incline and had a platform. The deck had been built at the top of the new set of stairs, which the construction of it had already been started. This deck would give them an egress at the back of the house. Paul LaRochelle asked John Dever, III, if the areas that were built back in 2015 were done up to code with proper footings. John Dever, III, stated that he could not recall if there were concrete footings installed in the ground or not. Luke Mitcheson, Esq., stated that they did not install concrete footings in the ground, but used gravel and sand that was compacted. He stated that the

gentleman that was helping them with the project thought that it would be less of an impact on the ground.

Paul Monzione had some questions about the picture indicating the new staircase. He thought that there was water under the staircase. David Mitcheson stated that there was water under the staircase. The dock was U-shaped, the existing stairs went over a ramp, and in order to get from the U-shaped dock you had to cross over water. Paul Monzione was confused because Luke Mitcheson, Esq., mentioned that the ramp was slippery to walk on, but the ramp in the picture indicated that it was over water. David Mitcheson explained that the old and the new set of stairs both had a ramp that crossed over the water.
Paul Monzione asked if there was an application submitted to DES for having to cross the water to get from the ramp to the dock. Luke Mitcheson, Esq., stated that he submitted an application to DES, but he had not received his approval yet. Paul Monzione thought that if the Variance was granted, a condition of approval would be that all pertinent permits were obtained. He mentioned that if people were building over the lake, DES had strict regulations on how things were built.

Paul Monzione mentioned that the Conservation Commission had a concern that somehow this construction was going to make it more non-conforming and he asked if the project was expanding to make it a non-conforming structure. Luke Mitcheson, Esq., stated that Mr. & Mrs. Mitcheson were adding a deck, which was within the 50' zone. Paul Monzione mentioned that since they were making the deck bigger, that would make a non-conforming deck even bigger. Luke Mitcheson, Esq., stated that it was a brand new deck and not an old deck they were making bigger that way they would have a second egress down from the house to the deck and then tie the new stairs into it as well. Paul Monzione asked if there was a deck there now. Luke Mitcheson, Esq., stated that a deck did exist there now, but that was part of the new one that was built without a permit. David Mitcheson stated that there was an existing small platform that was built to access the windows from outside and to be able to reach the gutters to clean them out, but it was small; he shared that it was non-conforming. He shared that the back and front of the house were separated and should there be a fire, the occupants of the house would be trapped out back because it would not be easy to get out; the sliding glass doors also faced in the direction to the platform. He thought it made sense to be able to get from that platform down to another set of stairs to a safety platform and be able to scoot down the stairs to safety; however, it was non-conforming. Paul LaRochelle stated that there was protocol people had to go through properly from the design to getting approval from DES.

Paul Monzione asked if the platform was always there, or did they build that in 2015. David Mitcheson stated that was always there. Paul Monzione asked when the house was purchased, which was probably non-conforming in many ways, that one of the non-conformities was this narrow platform that was outside of the sliding glass doors. He mentioned that it was probably non-conforming because it was in the lakeshore setback, but it was probably also non-conforming because of the building code; therefore, it was unsafe because it was too narrow. Paul Monzione confirmed that the project was to make the platform safer and to bring it up to building code, then that would also have the added benefit of making the structure safer because of fire purposes allowing them to have an egress. David Mitcheson stated that the deck was already built.

Paul LaRochelle stated he was unclear about the horseshoe shaped walkway indicated in the pictures, in regards to where it was indicated on the plan. Luke Mitcheson, Esq., referred him to the Norway Plains set of plans. It indicated that the stairs would run into the deck. John Dever, III, stated that the new stairs would go from the deck down towards the water. Paul Monzione thought that 2/3 of the structure was in violation of the 50' setback, and it barely complied with the 30' setback. He further pointed out that all of the exterior decking and stairs was in violation of the 30' setback. John Dever, III, stated that the shoreland rules stated that if there was a structure within the 50', a deck could be expanded 12'. If the

structure was at the edge of the 50', no structures could be built within that 50' setback.

Tim Morgan asked if the dimensions of the decks were provided in their packets. David Mitcheson did not think so. Tom Morgan thought that when you looked at the deck on the side of the house, he wanted to know what the dimensions were. Luke Mitcheson, Esq., stated that he did not have the dimensions, but the deck was roughly the same size as the deck on the other side of the house.

Lou LaCourse asked what the width of the platform was because it looked like it was about 8' wide. David Mitcheson stated it was about 3-4' wide and was one foot wider. Lou LaCourse asked if the plan was drawn to scale. Luke Mitcheson, Esq., stated, yes. John Dever, III, stated that the 11 x 17 plan was not to scale. Paul Monzione stated that John Dever, III, had a large copy of the plan and a measuring device. John Dever, III, stated that the new portion of the deck was 11' wide and 22' long. Lou LaCourse wanted to know how wide the platform was. John Dever, III, stated it was 4' wide. Lou LaCourse asked why the old ramp was not replaced in kind. Luke Mitcheson, Esq., stated it was very steep to get up into the existing deck as it was now, so they built the new set of stairs to jog off to the right and then to the left, which included two landings; therefore, it took out the steepness of the stairs. Lou LaCourse brought up that the deck was built as a second egress to the house, and he wanted to know how they concluded that a deck was needed to have a safety egress instead of just a set of stairs. David Mitcheson stated it was his decision to increase the size of the deck and thought that there needed to be adequate enough space to get out quickly in case of a fire.

Paul LaRochelle asked about how long the walkway was that extended from the new stairway to the existing dock, and how much of that was over water. David Mitcheson did not know, but he did share that there was a pole in the middle of it supporting it up. Paul LaRochelle asked if it was in the lake; David Mitcheson stated, yes. Paul LaRochelle asked if the pole was pile driven into the lake. David Mitcheson stated, no, it was resting on a rock. Paul Monzione asked John Dever, III, if making the platform to be 4' wide instead of the 3' wide was ok; he stated, yes. Lou LaCourse asked about the new egress on the deck. He thought that the steps appeared to be going away from the lake; therefore, in order to get down the stairs, you would have to do a U-turn. He wanted to know why they put the stairs in that direction. David Mitcheson stated that it was his decision and he thought that they looked better that way. John Dever, III, stated that there was a large tree in the way.

Paul LaRochelle opened up public input. No public input. Paul LaRochelle closed public input.

DISCUSSION:

Tim Morgan thought that the project was well thought out, and the safety perspective was a good thing in a couple of ways. His concern was the reaction from DES and whether they would allow the construction to continue or not. Paul Monzione thought it was a little disturbing that construction had started without an application for a Variance, without an application to DES, and without building permits. He thought that David Mitcheson was very sincere and he was before the Board now to fix things, but he wanted his concerns to be known. Paul LaRochelle pointed out that because this piece of property was on an island, it had a different set of rules, but the applicant still should have pulled a building permit and applied to DES. Lou LaCourse thought that the need for a building permit was common knowledge. He thought that there was no need for the deck for a safe egress. He also thought that they could have rebuilt the existing ramp and just raised it a bit; everything else was extraneous and all it did was make the entire lot more non-conforming.

Paul LaRochelle moved the Board onto the worksheet.

Andrew Levasseur stated that the variance **will not** be contrary to the public interest. He thought that since the applicants had many visitors, it made sense to make it safe for them and themselves. Tim Morgan agreed it would not be contrary to the public interest. He thought that the public interest would be to protect the shoreline, the lake itself, and visual appearances. Paul Monzione agreed it would not be contrary to the public interest. He thought that the setback was in place to protect the lake and to prevent things that were not appropriate from being constructed. He further thought that this old grandfathered structure was made safer and aesthetically more pleasing. Paul LaRochelle agreed. Lou LaCourse disagreed.

Tim Morgan 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 that there were two issues; one was protecting the quality of the lake water and not having construction up close to the lake, and the visual appearance of the lakefront. This project avoided both of these issues. Paul Monzione agreed. Paul LaRochelle agreed. Lou LaCourse disagreed. He thought that the deck increased the non-conformity of the lot, he felt it was unacceptable, and there could have been a safe egress without the deck and new stairs. Andrew Levasseur agreed.

Paul Monzione stated that by granting the Variance, substantial justice **will** be done. He thought that in addressing one of Lou LaCourse's points, the building of the stairs as John Dever, III, had described actually increased the safety factor as opposed to the old ramps because there was a danger of slipping. He also thought that if there was a fire, occupants of the house should be able to get out safely without falling. He thought that the strict application of the Variance of the zoning regulation in this case, was unnecessary. Paul LaRochelle agreed. Lou LaCourse disagreed. He thought that the ramp could have been reengineered and replaced in-kind without any additional non-conformity. Andrew Levasseur agreed with Paul Monzione. Tim Morgan thought that a measure of substantial justice was a benefit to the applicant and it outweighed any loss to the community as a whole.

Paul LaRochelle stated that the request **will** not diminish the value of the surrounding properties. He stated that this was a unique property that was set back into the landscape of the island itself and he did not believe this project would diminish any value of any other surrounding properties. Lou LaCourse agreed and noted that no information had been presented either way. Andrew Levasseur agreed. Tim Morgan agreed that it would not diminish the value of the surrounding properties. Paul Monzione agreed and he thought that it was an overall improvement to the property, and with these types of improvements, they tended to help increase values.

Lou LaCourse 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 felt that there was a substantial relationship with the fact that the property was becoming more non-conforming, but he thought that the proposed use was a reasonable one. Andrew Levasseur agreed with Lou LaCourse. Tim Morgan thought that the unnecessary hardship arose from the topography of the island, and the non-conformity of the grandfathered structure; therefore, he thought there was a hardship and that the general public purposes of the ordinance were met by what the applicants had proposed. He thought that proposed use was a reasonable one; it replaced an old and unsafe slippery ramp with carefully constructed set of stairs. Paul Monzione agreed with Tim Morgan. He thought that the special conditions of the property were the topography, the sloping, the location of the structure to the lake, and the two

narrow platform that existed. With regard to fair and substantial relationship existing between the general public purpose of the ordinance and the specific application to this property, the Board had already discussed the fact that the general public purpose of the ordinance was to protect the value, beauty, and aesthetics of the lake; he thought that this project did not danger any of this. He agreed that the proposed use was a reasonable one because it was improving the ramps overall by turning them into stairs. Paul LaRochelle agreed with Paul Monzione and Tim Morgan for the same reasons.

Tim Morgan moved to GRANT the Variance for Case #Z18-21, with the condition that all permits be obtained from the Building Department and DES, and to receive an approval from DES before any work moved forward.
Paul Monzione seconded. Motion PASSED by a vote of (4-0-1) with Lou LaCourse voting nay.

Case #Z18-22 **J. Chris Nadeau, P.E., of Nobis Engineering, Inc., Agent for Blue Planet Funding/William Heck, Applicant, David R. Hussey 2007 Rev. Trust/David R. Hussey, Trustee, Owner**	**356 Suncook Valley Road** **Map 5 Lot 72-7**	**Special Exception** **Rural (RU) Zone**

A Special Exception is requested from **Article 400 Section 401F., 8.**, of the Zoning Ordinance to permit the construction of a utility scale solar energy system/solar farm within a Rural zone.

The chairman read the public notice for the record.

Tim Morgan mentioned that the agent letter was missing from their packet, but David Hussey was present. He asked David Hussey to state for the record that he had an agent. David Hussey stated that he had designated Chris Nadeau, P.E., of Nobis Engineering, Inc., William Heck of Blue Planet Funding, and Andrew Kellar of New England Solar Garden, as agents for Case #Z18-22.

Present were Chris Nadeau, P.E., Andrew Kellar, and William Heck as agents; and David Hussey, Owner.

Tim Morgan moved to ACCEPT application #Z18-22, as complete.
Lou LaCourse seconded. Motion PASSED by a vote of (5-0-0).

Chris Nadeau, P.E., Andrew Kelleher, William Heck, and David Hussey came to the table. Andrew Kellar stated that he was the lead developer with this project. He shared that he had done some large-scale solar projects around the state. Chris Nadeau, P.E., would be the person to contact if there were questions about New Hampshire development, like the engineering and permitting. William Heck had knowledge of the technical and electrical components and he represented the ownership group and co-developer of this project.

Chris Nadeau, P.E., stated the property consisted of 138 acres, but the focus of the project was in the front 50 acres of the parcel. The proposal was a 3-MW AC solar array in three (3) distinct areas. He stated that they would first go in and clear the area of trees where the panels would go, and the way that the panels were set up, they would not have to regrade the area. Once the foundations were put in and the panels were set, everything underneath the panels would be grass. A 6' high fence would be constructed around each of the individual arrays, which were required by code, and there were some small equipment pads that would hold the inverters and other equipment necessary to transfer the power out to Suncook Valley

Road. Access to the three (3) arrays would be from the existing driveway. There would also be a small gravel driveway laid out alongside the panels in order to access them for maintenance. The fences would be built off the ground in order to accommodate small wildlife. Chris Nadeau, P.E., shared that they worked around any wetlands because they were not looking to apply for any permits for that.

Chris Nadeau, P.E., stated that the first set of panels were about 500' off the road; he shared pictures with the Board. The pictures consisted of a Google Map view of the area that the arrays would be seen from the road. He thought that they would not be too visible, but when driving by you could probably get a quick glimpse of them. He mentioned that the views from abutting properties consisted mainly of trees and wetlands.

Chris Nadeau, P.E., shared that the new technology with solar panels minimized glare, and reflectiveness was down 15 to 20%. William Heck stated that his company had installed the same panels on airports, and glare was not an issue with the FAA. Paul LaRochelle asked if all of the power lines were going to be installed underground. Chris Nadeau, P.E., stated that when the lines came off the main road up to the first lower array, they may go underground, but that would be determined when they went before of the Planning Board. Paul LaRochelle asked if the panels were attached to footings. Chris Nadeau, P.E., stated that typically w 6" x 9" posts were pile driven into the ground as a footing, then all the racking systems were attached to that footing. Paul LaRochelle noted that there was a 6' fence around the arrays, but if someone were to climb over them, would they be in any immediate danger if they touched any of the panels. Chris Nadeau, P.E., stated, no, there was a conduit that would come up from the ground and connect to the panels; there were no exposed wires. He mentioned that the set up would have to be built per code.

Paul LaRochelle asked how long a project of this type would take to be completed. Chris Nadeau, P.E., stated that the lengthy part of the process was preparing the applications for the State and appearing before the ZBA and the Planning Board, but the actual construction time would be about three (3) months. William Heck stated that he would like to complete the project before the end of the year. He also mentioned that there were some things to work out with the electrical connections with the power company. Paul LaRochelle asked if there was any routine maintenance. William Heck stated there was some maintenance. The first thing was vegetation control, and there was an annual maintenance check where they would look at the wire connections thermographically to make sure there were no bad wire connections, and if there was a large circuit breaker, that might need periodic maintenance. He also shared that they might wash down the panels depending upon what time of year and how much rainfall there was.

Paul LaRochelle asked if there was a plan in place if a fire was to break out on the panels, or if there was a forest fire. Chris Nadeau, P.E., stated that he had these types of discussions before with other fire departments and Boards in other towns, and the biggest concern was how to protect what was around the solar arrays if it was a panel that caused a fire; having an access way to the panels and access to the panels themselves was very important. William Heck stated the panels were not made of anything combustible; they were made of aluminum, glass, and insulated wire. He noted that the highest risk would be an electrical fire, but there were at least three (3) levels of protection coming from the power plant on the way out. There were fusing and combiner boxes, a disconnect consisting of three (3) switches (one for each array), and on the utility side there would most likely be an automatic recloser. Paul Monzione questioned whether the panels were live or not. William Heck stated that the wires in between the panels were live. On the back of each panel, there was a junction box where the wire was already attached, then they were plugged into a string, as the string was plugged together, the voltage got higher; those wires were live when the sun was up. The wires would go into an inverter, changing it from DC to AC power.

The inverter would then change the power into 480-volt alternating current, which would be collected together in a common switchgear to interconnect to the utility through yet another transformation that would take the voltage from 480 volts to 12,470 volts on the pole at the street. Paul Monzione clarified that the breakers would shut off the electricity flowing from the panels out to the pole, but the panels themselves, if they had collected electricity and that electricity was in the panels that did not go away. If the breaker was tripped, it did not eliminate the live electricity in the panels, it would just stop that electricity from flowing into the inverters and up to the pole. William Heck stated that there would be power from the wires from the panel to the inverter.

Tim Morgan asked if this case was going to be heard before the Planning Board; John Dever, III, stated, yes. He asked if the applicant had seen the comments from the Fire Department; William Heck stated, yes. Tim Morgan stated that the Fire Department wanted a Knox box for access, they wanted the access drive to be no less than 15' wide, and they wanted some help with training for first responders so they would know how to mitigate emergencies. William Heck stated he intended to support them.

Paul Monzione wanted to know how far the front solar array would be from the small house and from the road right-of-way. Chris Nadeau, P.E., stated it was about 500' from the right-of-way up to the first set of panels. He stated that what he was presenting was only a conceptual and had no problem with modifying the plans if need be. He noted that the array was roughly 200-250' away from the house, and there was a wooded buffer in between. Paul Monzione stated that there was a requirement for an evergreen buffer, and wanted to know if that was in their proposal. Chris Nadeau, P.E., stated that evergreens were already there, so there was no need to propose anything at this point in time. Paul Monzione asked how far setback were the arrays from the right side property line. Chris Nadeau, P.E., stated it was about 50-75' off the property line. Paul Monzione asked if there was a tree line buffer between the array and the side property line. Chris Nadeau, P.E., stated there was an existing mature standard forest between the array and the side property line. Paul Monzione asked if the driveway access ways between the arrays were at least 15' wide. Chris Nadeau, P.E., stated yes.

Lou LaCourse stated that he had a concern from Route 28; there was a stone wall that ran alongside the edge of the woods behind the house, and at the end of that stone wall, he wanted to know how close the arrays would be. Chris Nadeau, P.E., stated it was about 50' away from there, but they could be moved if need be. Lou LaCourse wanted to know where the back property line was compared to where the house was. David Hussey stated it was about 100' from the property line.

Paul Monzione pointed out that these arrays were being installed in order for David Hussey to sell electricity to NH Electric Co-op; they would receive the electricity right off the telephone pole that was already there, and then it would go to the transfer station off Route 28. Andrew Kellar stated, yes. Paul LaRochelle asked what the output was. Andrew Kellar stated 3MW AC. He stated that 150 typical NH homes could run on 1-MW. Paul Monzione asked if any of this electricity would be used on the premises for David Hussey's own personal use, or was it all for commercial use. Andrew Kellar stated that the concept behind his business model was community solar. Under the NH Group Net Metering Statute, it allowed them to find a central location that was a good solar site, and then they could use that site to generate the power and share that power amongst the community. The community could mean all throughout NH, or it could be in the NH Electric Co-op service territory, like schools, towns, and small business owners. These places could join and receive a solar rebate off their current electric bills if they joined.

Paul Monzione asked if any of the land needed to be cleared where the arrays were being installed. David Hussey stated that if there were any shadowing around the arrays, then yes, they would do some cutting.

He shared that his land was taxed as agricultural land and he had done a lot of work moving some large boulders to prep his land as farmland. Paul Monzione wanted to know how much of the other two arrays would be seen when driving by. Andrew Kellar stated that you would see the front part of the second one up the hill a bit. Lou LaCourse asked if they were going to plant some greens so you could not see it. Chris Nadeau, P.E., stated that they did not propose to plant any trees, but if the Board required that then they would have to plant some evergreens. David Hussey stated that he had 60' tall trees between the arrays and his house, and he did not think people would be able to see very much of it from the street. Paul Monzione stated that the ordinance indicated that the solar farm shall be constructed with evergreen vegetative screening to obscure solar energy system perimeters year round from adjacent parcels where existing buffers do not exist. He noted that the ordinance dealt with screening from abutting parcels, and not so much from the driver's perspective. David Hussey stated that he would plant a row of evergreens from his neighbor's property line, which some were already there, down to his field.

Paul LaRochelle opened public input.

Marty Cornelissen came to the table. He stated that he and his wife were abutters to the north and they had no objection to Mr. Hussey's proposal. He stated that David Hussey had been very up front with his project and they would not even see the solar arrays. He did want to address fire safety. He shared that there had been a number of forest fires in the area and in order to get access to the back array, you had to drive up a Class V road, which ran along the lot line. This Class V road went right to their driveway. There was a range way that was private, but it was open. David Hussey had a right to use it as they did. The range was open for fire access, and it had been used a number of times before.

Tom Twaddle came to the table. He wanted to bring attention to the traffic. When he headed south on Route 28 and tried to turn into his development, since people were driving 50 mph, it was hard to take a left because of the oncoming traffic. That area used to be a 50 mph zone, but it was reduced to 40 mph. His concern was all the construction trucks that would be traveling in and out of his property. He thought that it might cause some issues because a large truck would have to cross over the yellow line in order to take the turn into Mr. Hussey's driveway, and there was a sharp corner there. Andrew Kellar stated that there would not be daily deliveries to the construction site. William Heck stated that they could put up some signage or use flaggers for oversized loads when those deliveries were taking place.

Paul LaRochelle closed public input.

Andrew Levasseur asked what the project was going to look like in 25 years. He asked if panels would have to be replaced. William Heck stated that panels degraded over time, ½ percent per year, so in 20 years the arrays would still be a valuable asset. He mentioned that he could not anticipate how technology would change between now and the next three decades; there could be some "smart" technology that could change how the arrays operate. Andrew Kellar stated that the panels came with a 25-year warranty and the inverters came with a 10-15 year warranties depending upon the system. William Heck stated that most of the materials used in this type of project were recyclable. Paul Monzione asked about a decommissioning plan. He wanted to know if one was being submitted for this project. Chris Nadeau, P.E., stated that there was going to be one submitted with the Planning Board application.

Paul LaRochelle moved the Board onto the worksheet.

Paul Monzione stated that a plat **has been** submitted in accordance with the appropriate criteria in Article 500, Section 520B. All Board members agreed.

Paul LaRochelle stated that the specific site **is** an appropriate location for the use. He stated that there was over 100 acres of land and it was a perfect situation for installing a solar array, therefore, it was an appropriate use. Lou LaCourse stated it was a very large lot located on a curve on Route 28, and he thought not that many people would be looking over at the lot while driving around the curve; it would be large invisible from the road. All other Board members agreed.

Lou LaCourse stated that factual evidence **is not** found that the property values in the district will be reduced due to incompatible land uses. He stated that the Board did not have anyone present any information one way or the other as to whether property values would be reduced or increased. Tim Morgan stated there was no evidence submitted with respect to that. Paul Monzione stated that compliance with the buffers would ensure that. All other Board members agreed.

Andrew Levasseur stated there **is no** valid objection from abutters based on demonstrable fact. He stated that all the abutters seemed to be in favor of this project. All other Board members agreed.

Tim Morgan stated that there **is no** undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking. He stated that there was an abutter that was concerned about traffic during the construction period, but the applicant addressed that, and he did not think there would be any issues post construction on any pedestrian or vehicular traffic. Paul Monzione thought that the representation was that this was not an operation that required traffic going in and out of the location. All other Board members agreed.

Paul Monzione stated that adequate and appropriate facilities and utilities **will** be provided to ensure proper operation of the proposed use or structure as stipulated. He thought that this was not something that the Board needed to be concerned about; given the description of the construction of this project, he thought these things would be adequate and appropriate. All other Board members agreed.

Paul LaRochelle stated there **is** adequate area for safe and sanitary sewage disposal and water supply. He stated it was not necessary for sanitary sewage disposal of any kind; it was not anything that anybody would be living in; this did not apply. All other Board members agreed.

Lou LaCourse stated that the proposed use or structure **is** consistent with the spirit of the ordinance, and the intent of the Master Plan. He stated that the Master Plan encourages using less fossil fuels to keep our air and water clean now and into the future. Tim Morgan stated this was a subject of a warrant article last spring, which passed by a wide margin, so this certainly was consistent with the spirit of the ordinance. Paul Monzione stated that Mr. Hussey was helpful and instrumental to our committee that looks at zoning ordinances and when the idea was brought to the committee, they agreed that this was something that our town should have in our zoning regulations and should be encouraged. He thought that this project was not only consistent with the ordinance, but with the intent of the Master Plan. All other Board members agreed.

Lou LaCourse moved to GRANT the Special Exception for Case #Z18-22.
Andrew Levasseur seconded. Motion PASSED by a vote of (5-0-0).

OTHER BUSINESS

1. **Previous Business:**

2. **New Business**:

a. Memo dated July 3, 2018, from Nic Strong, Town Planner, re: ZAC Membership for 2018/2019.

Frank Rich was nominated to be the second person from the ZBA to sit on the ZAC Committee for 2018/2019. The Board agreed.

3. Approval of Meeting Minutes: June 7, 2018 and July 5, 2018.

Lou LaCourse pointed out that the decisions on Case #Z18-12 indicated that the Board denied the Variance, but in fact, the Variance was granted. John Dever, III, explained that meeting did not end up being recorded due to some technical issues, so when he wrote down his notes, Jessica A. Call, Recording Secretary, probably misunderstood what was written. Paul Monzione did not think that he was on the Zoning Board of Adjustment for 18 years, as stated in the minutes, but after talking to some of the other Board members he thought that was most likely correct, but he was not entirely sure of the exact number of years.

Lou LaCourse moved to approve the June 7, 2018, minutes as amended. Andrew Levasseur seconded. Motion PASSED by a vote of (4-0-1) (Paul Monzione abstained).

Paul Monzione moved to approve the July 5, 2018, minutes as submitted. Tim Morgan seconded. Motion PASSED by a vote of (4-0-1) (Andrew Levasseur abstained).

4. Correspondence:

ADJOURNMENT

At 8:15 P.M., Paul Monzione MOVED to adjourn. Andrew Levasseur seconded. Motion PASSED by a vote of (5-0-0).

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as submitted: November 1, 2018