

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2017
SEPTEMBER 13, 2017**

APPROVED

Members Present:

Virgil MacDonald
Tim Morgan
Scott Williams
Tom Hoopes

Others Present:

Nic Strong, Town Planner
John Dever, III, Code Official

CALL TO ORDER

Scott Williams called the meeting to order at 6:00 p.m.

APPROVAL OF AGENDA

ELECTION OF OFFICERS

A vote was taken amongst Committee members on who the new Chairman of the Committee would be:

**Scott Williams moved to nominate Paul Monziona, Chairman.
Virgil MacDonald seconded the motion, and it PASSED unanimously.**

CONTINUED BUSINESS

Nic Strong explained the proposed amendments in her memo to the Committee:

1. INTERPRETATION OF ZONING ORDINANCE WITH REGARD TO PRINCIPAL AND MIXED AND MULTIPLE USES ON INDIVIDUAL LOTS: Nic Strong stated that the Committee could read the email chain with Town Counsel. She noted that at one point, a resident wanted to do two (2) very different things on a piece of property and generally in the Code Official's opinion, if a site plan was done and any required approvals received from the ZBA, that was fine. Her question was when did it stop being ok to mix multiple uses. How many would be allowed on a piece of property, was it ok to have very different uses, who would be the person to decide it, or which Board would be in charge of it?

She noted that in the Zoning Ordinance, next to the Table of Uses it stated, "Land may be used and buildings may be erected, altered or used for only those used listed in the following *Table of Uses*. This table does not prohibit those uses which are considered accessory and customarily associated with the primary use." She thought what it meant was that the uses in the table were the primary uses and accessory uses were permitted, but that's not necessarily how it had been interpreted over the past few years. Nic Strong asked the Committee how they would like to handle this, to either describe what mixed or multiple uses were, or how many there could be and who would determine that.

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Scott Williams thought that if the Committee started naming things, more applications would be brought forth to the ZBA. For example, retail, and what did that encompass? He thought that it was very vague and if it was not on the Table of Uses, the ZBA would see a lot more applications. John Dever, III, thought that it should be changed somehow. Tom Hoopes asked if they could give broad examples. John Dever, III, suggested that if someone came in and wanted to put a pig farm on a lot with a restaurant in the Rural zone and they were both allowed in that zone, and then the owner decided to add a couple of other uses, how would that be handled? He thought that a home business in an apartment would not be unreasonable, but other mixed uses could be problematic.

Tom Hoopes asked John Dever, III, what types of requests he had been hearing about. John Dever, III, stated that there had been some questions like, "Could I put a dock company on a lot with a residence with an apartment?" John Dever, III, was wondering what exactly would be considered a mixed use. He noted that there had not been many inquiries, but it was something that should be looked at because as the Town grew business-wise, how would uses be mixed. Tom Hoopes thought that there should be some type of scale that indicated what uses could be combined, but put a limit on it. Nic Strong thought that if people stuck to the Table of Uses, they were probably going to be stuck saying there shall be one principal use on a lot as such customary uses are associated. She stated that would limit the ability to combine things. As Nic Strong explained to Jim Sessler, Esq., Town Counsel, at the current moment in the Rural zone, you could have a house, a daycare, a riding stable, an auto repair garage, and a restaurant, and no Board would limit those separate uses, as long as each individual use had an approval for them. Nic Strong stated that if people received approvals for their proposed uses, and that was how the Board wanted to consider applications, then the ordinance should specify that. The uses may be mixed as long as they had the appropriate approvals, but the problem was that the ordinance did not clearly state one way or the other. She thought the ordinance should state that you could have one principal use on a lot and then you could have accessory uses, or the ordinance should state what a mixed use was and then get into a long winded way of saying what they could be, or the ordinance should state that any of the uses in the table were permitted as long as you have all required approvals. Tim Morgan noted that the ordinance could state that the uses were allowed in their respective zones. John Dever, III, thought that a lot of the uses were allowed in the zone, but they might be allowed by right, with site plan approval, or a special exception might be needed first. Nic Strong suggested putting in a description of what the general purpose of each district was. She noted that at a Planning Board meeting, if someone came in with a fifth site plan with a fifth separate use on a piece of property, and if the Planning Board said no, they would have no criteria to say "no" about, whereas if the district had a description that stated for example, "The residential commercial zone is for", then the Board would have a purpose to go by to say that the applicant was not meeting the intent of the district when proposing their fifth use. Tom Hoopes thought that the ordinance should state there could be a principal use and another use, and additional ones would be subject to review.

Nic Strong asked the Committee if they were leaning one way or the other in terms of adopting mixed and/or multiple uses on a lot. Scott Williams stated that he would like to see some wording for proposed amendment #1 before he decided one way or another.

2. **LOTS IN TWO OR MORE ZONING DISTRICTS:** Nic Strong mentioned that this was deferred from last year and wondered if the Committee wanted to address it this year. Scott Williams stated

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that currently, property owners could use whichever was the least restrictive ordinance for the entire lot. Nic Strong stated that there was no language for that and, in fact, the whole issue had been taken out back in 1992 by a ballot vote. John Dever, III, wondered how many lots this would affect. Nic Strong stated that she had not done any digging as to how many would be involved. Scott Williams thought that there were many just along the Route 28 corridor alone. Nic Strong asked John Dever, III, if this issue had come before him at any point, he stated there was the issue with the West Alton Marina. He stated that the marina asked for a Variance to use the other side of the lot as part of the marina operations, because the lot was split by the Recreation Service and Lakeshore Residential Zones. Nic Strong stated that if the amendment was not pursued at this time, then the procedure would stay that same as it was now, having to request a Variance. Scott Williams thought that if this issue only came up once in a five-year time span, then they should not waste any time on it.

Scott Williams moved to strike #2 from the list of proposed 2018 zoning amendments and not add language re: lots in two zoning districts.

Tim Morgan seconded the motion, and it PASSED unanimously.

- SECTION 360 NON-HABITABLE STRUCTURE AS PRINCIPAL BUILDING ON A LOT: Nic Strong explained that since this regulation was added to the Zoning Ordinance, John Dever, III, had noted that the ZBA had been seeing applications for Special Exceptions for garages on lots in the Lakeshore Residential district. She noted that the Table of Uses showed it was not permitted at all in the Lakeshore Residential district and in fact, people would need to ask for a Variance. She suggested either amending the wording in Section 360 to clearly state that non-habitable structures were not permitted in the Lakeshore Residential district, or changing the Table of Uses to permit them by Special Exception in that district. Tim Morgan proposed to accept them by Special Exception, because the applications that the ZBA had seen, were small lots next to each other that were created a long time ago and there was no use for the second lot; therefore, leaving no place for a garage on the first lot. Tom Hoopes asked if the Board allowed a room over the top of the garage. John Dever, III, stated, not for habitation. He stated that was how the ZBA had been handling this situation. He also mentioned that the ZBA specified that there be no water or septic to the building, but electric was ok.

Tom Hoopes moved to include the proposed amendment #3 to Section 360 Non-Habitable Structure as Principal Building on a lot, by changing the application requirement from a Variance to a Special Exception in the Lakeshore Residential district.

Tim Morgan seconded the motion, and it PASSED unanimously.

Nic Strong wanted to make a change to the language in the Table of Uses because currently it only distinguished between garage and shed, but the language of the Section specified a size limit for each of them. She noted the suggested changes in *bold italics*:

	Residential Uses	R	LR	RC	RR	RU	RS	Notes
10.	Garage, <i>workshop or shed larger than 240 s.f.</i> , as principal building on lot	E	N	E	E	E	N	See Section 360 (added 11 March 2014)

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11.	Shed, <i>less than 240 s.f.</i> , as principal building on lot	Y	Y	Y	Y	Y	Y	See Section 360 (added 11 March 2014)
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**Tom Hoopes moved that this proposed amendment #3 should include the bold italicized descriptions to the Table of Uses for the garage and shed dimensions.
 Virgil MacDonald seconded the motion, and it PASSED unanimously.**

- SECTION 401 TABLE OF USES, OPEN SPACE USES #1. Agriculture: Nic Strong stated that the definition in the Zoning Ordinance referenced the State Statute, which was a long list of many possible uses that could be agriculture. Currently, the Table of Uses permitted agriculture by right in the Rural Residential and Rural districts and it did not allow it anywhere else. She stated that John Dever, III, had run into some issues like chickens and beekeeping for on a small scale, and somehow getting those smaller scaled things that were considered agriculture in districts that currently were not allowed. Virgil MacDonald thought that if people had the room, they should have what they wanted. John Dever, III, shared that any ordinance for chickens should include having no roosters and that the chickens were to stay on the owner’s property and not free-range throughout the neighborhood. He suggested making a clause in the ordinance to state that the agriculture use would be for personal use only.

**Tim Morgan moved that this proposed amendment #4 be put on for further discussion, to allow for some language to be written up.
 Virgil MacDonald seconded the motion, and it PASSED unanimously.**

- SECTION 412 RESTRICTIONS GOVERNING USE – LAKESHORE RESIDENTIAL: Nic Strong stated that this came up when John Dever, III, was asked about the potential for subdividing a lot, when he noticed what the ordinance showed for frontage in the districts. She stated that currently, the difference was that a lakefront mainland lot had to have 30’ of frontage at the street right-of-way, where all other lots in the district had to have 150’. Scott Williams thought that a duplex should fall under the single-family requirements because that was done throughout the rest of the Zoning Ordinance. Virgil MacDonald wanted to know why the setbacks were so different, Scott Williams stated that the Lakeshore district had access only, and did not require frontage. Nic Strong stated that the closest frontage measurement in relation to lot size, was Residential/Commercial, single-family, 30,000 s.f. lot size, without municipal water, required 75’ of frontage. John Dever, III, mentioned that the goal of amending this ordinance was to make it more compatible with the other zones. He mentioned that in the Residential district, minimum lot size was 30,000 s.f. with only 75’ of frontage, then in the Lakeshore Residential district, which could be located on the other side of the road away from the lake, also had a requirement of 30,000 s.f., but the frontage was 150’.

**Tom Hoopes moved that this proposed amendment #5 be put on for further discussion, to allow for reducing the frontage requirement for lots in the Lakeshore Residential district with no lake frontage.
 Tim Morgan seconded the motion, and it PASSED unanimously.**

- SECTION 335 APPEARANCE REVIEW: Nic Strong mentioned that the bulk of the language from this ordinance ended up in the Site Plan Review Regulations for the Planning Board to look at during

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that process. She shared that John Dever, III, pointed out that during ZBA approvals, there was no language that would allow the ZBA to determine issues that dealt with Appearance Review. She stated that adding some language to Section B was what John Dever, III, suggested, and that would allow the ZBA to make such a review.

Tom Hoopes moved that this proposed amendment to Section 335 be put on for further discussion in order to consider more input on allowing the ZBA to have the authority to conduct an Appearance Review in instances where the Planning Board was not involved. Virgil MacDonald seconded the motion, and it PASSED unanimously.

7. Housekeeping items:
 - a. Nic Strong suggested that the definitions for “Frontage, Shoreland” and “reference line” needed to reflect the RSA shoreland district definitions. The Committee members agreed.
 - b. Nic Strong stated that the definition for “Open Space” currently stated, “Septic fields shall be permitted to be installed in open space.”, and one of the Planning Board members asked if wells, other utilities, and septic piping would be allowed under this definition, and whether the language needed to be clarified. Scott Williams did not think the ordinance needed to be that specific. John Dever, III, noted that when people went to apply for a septic system through his office, that piping was included in the process. Nic Strong stated that if the Committee was okay with the current definition, then no changes needed to happen. The Committee agreed to leave the definition as it was.
 - c. Nic Strong noted that there used to be a section in the Street Design Standards, in the Subdivision Regulations that stated if a lot was going to be for agricultural or forestry uses only, it had to be a minimum of 10 acres and a note had to be on the plan stating it was only for agricultural purposes. She stated that the Planning Board struck that sentence because the Subdivision Regulations were not the place to put a zoning acreage requirement which was not currently indicated in the Zoning Ordinance anywhere. She asked if that was something that was supposed to be in the Zoning Ordinance. Tom Hoopes thought that the 10 acres indicated it was supposed to have something to do with current use; Scott Williams agreed. The Committee determined there was no need to amend the Zoning Ordinance.
 - d. Nic Strong noted that John Dever, III, suggested that the Table of Uses should have assigned letters, A.-G., to the sections to make it easier to reference. The Committee agreed and suggested Town Counsel be consulted to see if this had to be a ballot amendment.

Items in a ZAC memo from 2015 to make changes in 2016 that were postponed and postponed again in 2017.

1. Consider additional areas for Commercial and/or Light Industrial districts. John Dever, III, thought that the Committee should consider a Light Industrial district, Scott Williams and Virgil MacDonald agreed. John Dever, III, suggested having a Light Industrial district up behind the American Legion. Nic Strong mentioned that a Master Plan update was set to start with a community profile next fall. Currently, the Master Plan that was in place was from 2007. She stated that there was not enough time to come up with something to put on the ballot to rezone.

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She wanted to know if they should keep it on the list for next year, because she could incorporate it when the Master Plan was updated. The Committee agreed to put this off and include implementing the districts in the Master Plan.

5. Obnoxious Use Provision: Scott Williams gave an example of someone having a campfire at their residence, and if the smoke blew into someone else's open windows, he thought there would be many complaints. John Dever, III, stated that if this ordinance was proposed, that maybe some language should be added to include commercial properties. Nic Strong was unsure why this ordinance was suggested back in 2015, and asked John Dever, III, if an ordinance of this type was needed. John Dever, III, stated that he was in favor of some type of ordinance such as this. Scott Williams suggested for some language to be written up and presented to the Committee at its next meeting.
6. Consider temporarily allowing a manufactured home and/or a recreation vehicle to be occupied as a residence during the construction of a permanent residence on the same lot. John Dever, III, stated that currently there was no ordinance that addressed this situation, and if it was not listed, then it was not allowed. Scott Williams thought this should be addressed at a future meeting.
7. Standards for impervious surface coverage for lots in the Lakeshore Residential district. John Dever, III, stated that other towns addressed total impervious coverage. Scott Williams suggested implementing something similar like the Planning Board required for commercial properties, groundwater recharge. Virgil MacDonald thought that this ordinance should be looked at further. Scott Williams thought that this needed some language added to it and presented to the Committee at the next meeting.
11. Conservation Subdivision Ordinance: This was proposed to the townspeople in 2013 and was voted down by a vote of 791 opposed (60%) and 522 in favor (40%). Nic Strong thought this should be worked on along with the Master Plan update; the Committee agreed.
12. Consider amending the Residential (R) Zone to:
allow a Church as a special exception use (*currently not permitted*);
 - a. allow a Kindergarten, Day Care or Nursery Care as a special exception use (*currently permitted by right*);
 - b. allow Public or Private Educational Uses as a special exception use (*currently not permitted*);
 - c. allow Government Buildings, Libraries or Museums and Public Recreation as a special exception use (*currently not permitted*);
 - d. allow Energy Facility as a permitted use (*currently not permitted*); and
 - e. allow a Golf Course as a special exception use (*currently not permitted*).

The Committee determined that this should be addressed following the Master Plan update.

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14. Consider amending the Residential Commercial (RC) Zone to:
- a. allow an Amusement Use - Indoor as a permitted use (*currently permitted by special exception*);
 - b. allow Boat Storage as a special exception use (*currently not permitted*);
 - c. allow an Energy Facility as a permitted use (*currently not permitted*);
 - d. allow a Driving Range as a permitted use (*currently not permitted*);
 - e. allow a Lumber Yard as a permitted use (*currently not permitted*);
 - f. allow Self Storage as a special exception use (*currently not permitted*);
 - g. allow Small Engine Repair as a special exception use (*currently not permitted*); and
 - h. allow Warehousing and Wholesale Marketing as a special exception use (*currently not permitted*).

The Committee determined that this should be addressed following the Master Plan update.

Nic Strong brought up the definition of a “Duplex”. She stated that what John Dever, III, explained to her was that the definition currently referred to a vertical separation and she wanted to know if he wanted to include horizontal separation. John Dever, III, stated that this was something that should be looked at because the building codes included not only a side by side, but also an up-down two-family configuration. The Committee agreed to review language for a proposed amendment.

Nic Strong stated that there was no definition that referred to selling aggregate landscaping materials, like sand and gravel. She stated that someone came into the office and informed her that they no longer had anything to do with excavation because they had no more land to excavate, but still sold materials to construction sites, and they wanted to know how they would be able to continue. John Dever, III, stated that the only place that would currently fall under would be Retail Store. The Committee agreed to review language for a proposed amendment.

Nic Strong stated that at the end of July, Tom Hoopes got in touch with her and he wanted to discuss with the Committee reinstalling the ban on the ordinance that allowed two houses on one lot in the Rural district without subdivision approval, which was voted in last year. Scott Williams thought that was not a good idea and he wanted to know why he suggested that. Tom Hoopes stated there were several lots in town that could not be subdivided because they did not meet any subdivision standards and there would be two houses on a lot that could not be sold. Scott Williams did not think that the selling of the houses had anything to do with the Town. He also thought the Committee should wait until there were more members of the Committee present to decide on what to do with Tom Hoopes’ suggestion.

Tim Morgan asked Nic Strong if she was going to write up the intent of the districts, she stated, yes.

Other Business:

1. Old Business:
2. New Business:

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3. Approval of Minutes: October 25, 2016, November 1, 2016, and July 26, 2017

Virgil MacDonald moved to approve the minutes from October 25, 2016, and November 1, 2016, as presented.

Scott Williams seconded the motion, and it PASSED unanimously.

Since Virgil MacDonald and Paul Monzione were the only two (2) members in attendance at the July meeting, Virgil MacDonald wanted to wait until Paul Monzione was present to approve the July 26, 2017, minutes.

Dates for Future Meetings:

Tuesday, September 26, 2017, at 6:00 p.m.

DISCUSSION

No further discussion.

ADJOURNMENT

At 7:40 p.m., Tom Hoopes moved to adjourn. Virgil MacDonald seconded the motion, and it PASSED unanimously.

The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Jessica A. Call
Recording Secretary

Minutes approved as written: September 27, 2017