

**TOWN OF ALTON  
ZONING BOARD OF ADJUSTMENT  
MINUTES  
Public Hearing  
October 2, 2014  
Approved as Amended 11/6/14**

**I. CALL TO ORDER**

Paul Monzione called the meeting to order at 7:03 p.m.

**II. INTRODUCTION OF CODE ENFORCEMENT OFFICER AND ZONING BOARD MEMBERS**

Paul Monzione, Chair, introduced himself and the members of the Zoning Board of Adjustment:  
 John Dever, Code Enforcement Officer  
 Tim Morgan, Member  
 Steve Miller, Member  
 Paul Larochele, Member  
 Lou LaCourse, Member (joined the Board at 8:45 p.m. following a Selectmen’s Budget Meeting)

**III. APPOINTMENT OF ALTERNATE**

There are no alternates at this time.

**IV. STATEMENT OF THE APPEAL PROCESS**

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

**V. APPROVAL OF THE AGENDA**

**S. Miller made a motion to approve the agenda as presented. P. Larochele seconded the motion which passed unanimously.**

**VI. NEW APPLICATIONS**

<b>Z14-20 Z14-21 Springhaven Campground LLC</b>	<b>Map 70/Lot 5</b>	<b>Special Exception Variance 1702 Mount Major Highway</b>
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*Springhaven Campground LLC is requesting a Special Exception to Article 300, Section 320A.4 and a Variance to Article 300 Section 355 A. to permit converting one unit in the campground to a year-*

*round unit to house a year round security employee. This property is located in the Lakeshore Residential (LR) Zone.*

The case was read into the record by P. Monziona. Bernard Lynch came forward to present the application

The application was reviewed for completeness. P. Monziona questioned the lack of an abutter list in the application, which was copied and provided to each member by J. Dever. T. Morgan voiced concern that there was no rendering of Unit 22, which is the subject unit. S. Miller asked about agent appointment for Mr. Lynch to present on behalf of the owner. In this case Mr. Lynch is the sole and managing member of the LLC, so he is authorized to speak on behalf of the LLC. In addressing the issue of lack of renderings or photos of Unit 22, Mr. Lynch explained that they are requesting one unit only, and it may change from Unit 22 to a different unit. P. Monziona explained that a depiction of the unit is usually helpful in determining whether the request meets the criteria for granting the variance or Special Exception. Mr. Lynch referred to an enlarged version of the plan that shows the exact location of the site, as well as the placement of the building on the particular site. S. Miller voiced concern about the possible change of unit once the request is granted, and also asked if there is a statutory requirement that a rendering of the unit be included in the application. P. Monziona explained that there is no statutory requirement for a rendering of the structure, but it would be helpful to the Board. The question about possible change of the structure is more toward the application itself rather than the completeness of the application. He went on to remind the applicant that whatever is represented at this meeting is the way it is going to be; once the variance or special exception is granted, the applicant is bound by what is represented at the meeting. P. Larochelle noted that his brother-in-law, Dan Comeau is an abutter; the Board members and applicant voiced no objections to having P. Larochelle remaining for this case.

**S. Miller made a motion to accept the application as complete. The motion was seconded by P. Larochelle. The motion passed with three votes in favor and one opposed (T. Morgan).**

After discussion, the applicant proceeded with the application Z14-20, which is the application for Special Exception.

Mr. Lynch explained that they are requesting to use one unit in the campground to house a year round security employee. P. Monziona confirmed through questioning that the Special Exception is for an expansion of non-conforming use; the current non-conforming use is that this property is a seasonal campground in the Lakeshore Residential zone, a use that is currently not permitted. This property is grandfathered. The use is expanding in that one unit is proposed to go from seasonal to year round use.

Unit 22 was clarified as Site 14, which is the unit in question. The unit is an RV, approximately 8' wide by 30' long. It is not presently on wheels, but could be hooked up and moved as needed. All utilities are present, and the unit has a self contained waste system hooked into the common septic system for the campground. The unit is heated by propane; there is a 50 gallon tank on the outside of the camper. Water is not protected from freezing in the unit; the water/facilities for year round use are in the bathhouse.

The unit is not currently occupied year- round. Mr. Lynch explained that the proposal is for security and it is possible that the occupant, Mr. Stocker, may stay there year-round, but that is not currently the intent. S. Miller asked if this is going to be used as a home or office; Mr. Lynch answered that there

will be someone living in the unit full-time, and that it will be occupied year round. During the winter months, water will only be available in the bathhouse.

P. Monziona clarified that the current use is recreational in nature-none of the units are commercial. S. Miller asked if someone is living there full-time now; Mr. Lynch answered in the affirmative. S. Miller asked if that person would still be living there year-round, even if the application was not granted; Mr. Lynch answered no. If this application is granted, that person will be designated as a year-round security person. P. Monziona asked if the person staying there would be an employee of the campground, using the RV for providing security for the campground. Mr. Lynch agreed, adding that the occupant would be given consideration for that.

P. Larochele asked about break-ins; Mr. Lynch explained that the unit in question had been broken into, along with attempts to break into several other units. Additionally there were attempts to break into seasonal homes in the area around the campground.

S. Miller asked if the individual in this designated unit would reside somewhere else if this application were not granted; Mr. Lynch answered that he would.

T. Morgan asked if the unit is sufficiently insulated for year-round use; Mr. Lynch answered that it is. T. Morgan asked if the roads are going to be cleared in the winter; Mr. Lynch answered that road clearing will be a responsibility of the security person, but that the roadways have always been cleared for safety and access. P. Larochele asked about CO and smoke detectors in the unit; Mr. Lynch answered that both are in place.

P. Monziona asked for clarification of which site will be used. Mr. Lynch explained that the campground has recently been renovated to comply with the Town of Alton's request for improved drainage. At the same time, all the streets were named and the units were numbered to meet the requirements of 911 Emergency service. P. Monziona referred to the plot map completed by Varney Engineering and requested clarification of the site and the placement of the unit on the site; Mr. Lynch answered that the site and placement of the unit as depicted are accurate. P. Monziona asked what part of the structure depicted on the site is the actual RV, minus attached decking and other buildings. Mr. Lentz explained that there is a main structure, approximately 8'X30', and there are some decks.

S. Miller asked J. Dever if he is familiar with the unit; J. Dever answered that it is a tow-behind RV, but that he has not been inside it. He did not measure it, but would estimate that the measurements given are accurate. It is set up with skirting; there is a large deck to the front. The camper has a slide out and all connections are in place. S. Miller asked if it is livable; J. Dever answered that if you want to live in a camper in the wintertime, it is. There are no visible code violations. S. Miller asked J. Dever if he had any particular concerns about this application; J. Dever referred to his comments in the staff review concerning water and sewage, which has been addressed, and whether the unit would be used full time and suitable for winter use. Some RV's are insulated for that, but not a lot. One of his concerns was about the railroad station that was moved to the site several years ago; it was conditioned not to be used for dwelling purposes. It is heated, and one of his comments concerns not using that building for dwelling purposes. He had concerns about frost protection for the water, which has been addressed by the applicant.

T. Morgan asked about the proximity of Site 14 to the Bathhouse, which is located right near the entrance from Route 11 and is designated Recreation Hall. J. Dever added that the showers and bathhouse area is in the basement of that building. P. Monziona commented that he did not recall that the building was supposed to have a basement when it was granted. Mr. Lynch explained that the

building, when moved to the site, was discovered to be almost exactly the same size as an existing, capped-over foundation that was already on site with the bathhouse facilities housed in it.

In conclusion, Mr. Lynch stated that he thinks this would be beneficial to his customers in that having someone on site would cut down on vandalism. It would also deter vandals on abutting properties.

The floor was opened to public input; there was none.

The Board members deliberated. P. Monziona stated that it is a good idea to have security on the site, particularly where there have been break-ins. His concerns are that this is an expansion of the use, which would prohibit granting under 320 A.4 which states that the special exception can not be granted when the expansion is clearly a new use. These are historically private, seasonal, recreational uses; now it is going to be an employee of the campground using it for the business purpose of providing security. This is not just a case of someone living there, but he is living there to provide security service. S. Miller stated that he does not feel this is in the spirit of the ordinance or the intent of the Master Plan; the intent of the Master Plan is not to have someone living on site. There are other options for security including hiring security on shifts, lights, cameras and fencing, or even dogs. If there were no other alternatives, he would be more inclined to grant the special exception. T. Morgan agreed with P. Monziona's comments about the wording of the statute. He is also concerned about the representation that the unit might be changed. P. Monziona also voiced concern about adequate and appropriate sewage and water supply; in reality, there is none in this building and the occupant has to go to the recreation hall to use the facilities, which could set a precedent he is also uncomfortable with. S. Miller also voiced concern about housing that might be come a full time residence rather than a security office that might be used as a base to operate from.

## **WORKSHEET**

P. Larochele stated that a plat has been accepted in accordance with the Town of Alton Zoning Ordinance 520B. All members agreed.

T. Morgan stated that the specific site is not an appropriate site for the planned use; this is a recreational campground in the Lakeshore Residential zone and it is not an appropriate site for full-time living in a recreational vehicle. P. Monziona agreed and added that because the use is going from recreational living to security services which could be construed as commercial, it is not just someone living there, it is someone using that building for a business purpose. The zoning regulation says that the expansion must be clearly not a new use, and he thinks in this case, this is a new use. S. Miller agreed and added that he does not believe this is an appropriate use of a residential structure. P. Larochele agreed also.

P. Monziona stated that factual evidence is not found that property values in the area will be reduced due to incompatible uses. There has been no evidence submitted to indicate that using this RV for security purposes would lower property values in the district. It might even help the values in the district to have security present. All members agreed.

S. Miller stated that there are no valid objections from abutters, based on demonstrable fact; all members agreed.

P. Larochele stated that there is no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking. All members agreed.

T. Morgan stated that adequate and appropriate facilities and utilities will not be provided to insure the proper operation of the proposed use or structure; there won't be any facilities or utilities provided to the residence itself. In order to get to the appropriate facilities, someone has to walk across the campground. P. Monziona agreed, adding that he does not think that you can meet this criterion by demonstrating that there will be facilities elsewhere, on a different site. Once that is accepted, there would be a lot of people before the Board with similar buildings without water supply or septic in the winter and they will be thinking they can go to a different building to get that. You do not satisfy this criterion by having that kind of a setup. S. Miller agreed; he is concerned that the RV may or may not be properly insulated for winter and he thinks there is a safety issue involved. P. Larochelle agreed and added that his concern is also the septic and water. When he asked about adequate frost protection, it was for the trailer, not for the facility they have to walk to. Therefore, there is not adequate frost protection for the RV itself, so he has to agree. If there was adequate water and sewage for the camper, he would feel better about that. Not having it on that site is a problem.

P. Monziona stated that there is **not** adequate area for safe and sanitary sewage disposal and water supply; this is based on the reasons previously stated. All members agreed.

S. Miller stated that the proposed use or structure is not consistent with the spirit of the ordinance and the intent of the Master Plan; the intent of the Master Plan does not include having a full time, four season building. The intended use for security purposes can be met in a number of other ways. There is no absolute requirement that someone has to live on site, and he believes the Board should not be in a position to set a precedent so that somebody who has been approved for a one or two season home should believe they have a right to live in that building on a full-year basis, without adequate safeguards. P. Larochelle agreed. T. Morgan agreed and added that the strict language of the ordinance is not met by this proposal; the ordinance is fairly specific. P. Monziona agreed; Section 320 A.4 prohibits granting a Special Exception unless it is clearly not a new use, and he feels this is clearly a new use as a business purpose supplying security to the campground.

**S. Miller made a motion not to grant the Special Exception because it does not meet the criteria. T. Morgan seconded the motion which passed unanimously. Based on this vote, the application for Special Exception was not granted.**

After brief discussion, and based on the failure of the application for Special Exception, Mr. Lynch decided to withdraw the application for the Variance in Case Z14-21.

<b>Z14-22</b> <b>Suzan Hock</b>	<b>Map 38/Lot 4</b>	<b>Special Exception</b> <b>150 Spring Street</b>
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*Suzan Hock is requesting a Special Exception to Article 300, Section 320 B.2.c to extend the elevation of the roofline by approximately 12 feet. This will allow for proper pitch and give the roof appropriate strength to sustain snow load. This property is located in the Residential Rural Zone.*

P. Monziona read the case into the record. Suzan Hock came forward to present the application.

The application was reviewed for completeness. P. Monziona ascertained that the drawing provided depicts the size and location of the structure in relation to setbacks and boundary lines.

**S. Miller made a motion to accept the application as complete. P. Larochelle seconded the motion which passed unanimously.**

Suzan Hock would like to elevate the roof on a cottage built in 1927. Not much has been done to the cottage; the inside is more or less a shell with stud interior and wood interior. It is her intent to keep it as a cottage but she is concerned about the integrity of the current roof. She would like to put on a metal roof with a steeper pitch that will allow snow to slide off. P. Monziona asked if there are bedrooms in the cottage; Ms. Hock answered that there is one room used as a bedroom but it does not have a closet, nor are there closets in any of the rooms. S. Miller asked if there is a window egress in each room; Ms. Hock answered that there is. S. Miller asked if there is a bathroom; Ms. Hock answered that there is. P. Monziona returned to the bedroom issue; regardless of the presence of a closet, he asked if there are any rooms in the house used as bedrooms. There is one. P. Monziona asked if it is her intention, due to the expansion of the roof line, to continue to maintain it as a one bedroom; Ms. Hock answered that it will remain a one bedroom; she is not raising the wall height, she is adding pitch to the roof, which will be tied into the floor. P. Larochelle confirmed through questioning that it will be new roof and rafters sitting on the existing walls. Ms. Hock agreed, but did add that one wall is going to be raised because it is currently not high enough.

P. Monziona addressed possible affect on the view of abutters within 500 feet of the subject property, and that expansion of use would have to have adequate sewage. There is no change or expansion to the use. T. Morgan followed up concerning the view of abutters; the provided photos show a house to the left; Ms. Hock explained that their view is out and to the left and he has a phenomenal view of the lake. There is also no impediment to his view of the trees to the right. Additionally, her cottage is lower and further back than his.

P. Monziona ascertained through questioning that the additional 12 feet added to the height of the roof line will not exceed the 35' height requirement. P. Larochelle questioned the purpose of the windows in the raised portion of the use; Ms. Hock explained that the two windows, one in the back and one in the front, will allow light into the attic/loft space, and give her a view of the lake when she is up in that space.

P. Monziona opened the floor to public input. Donald Cundy, an abutter, resides at 152 Spring Street. He spoke in favor of granting the application, as it will improve the property and the neighborhood and increase the value of the neighborhood. Sharon Cundy, also of 152 Spring Street asked what would happen if, when they put the roof on, the whole house falls down because the foundation is shot. P. Monziona explained that the Board looks at the application for Special Exception and sees if the criteria have been met; if they are, the Board grants it. It is up to the applicant to make sure all appropriate construction has been performed and there are things in place in the town and in certain circumstances, plans go from this Board to the Planning Board, depending on what is being done. In any event, any building in the town would be under the scrutiny of the Building Inspector/Code Enforcement Officer. Without a Building Permit you can't do this; there are appropriate inspections that need to be carried out so there are a number of safeguards in place to assure proper construction standards and safety are being met. That determination is not made at this Board; they simply look at the criteria set forth in the statute and if the criteria are met it is the Board's obligation to grant the application. If they are not met, it is the Board's obligation to deny. P. Monziona stated that he is not sure what the process would be in the event of a collapsed building; there are other Zoning Regulations that permit an owner of a collapsed building or a razed building to replace it in kind. There was no further input in favor, and none in opposition. Public input was closed.

P. Monziona gave the applicant an opportunity to respond to public input. Ms. Hock stated that she would not spend a lot of money on a new roof without having someone look at the structure first.

**WORKSHEET**

P. Monziona stated that a plat has been accepted in accordance with the Town of Alton Zoning Ordinance 520B. All members agreed.

S. Miller stated that the specific site is an appropriate location for the planned use; this is going to remain a seasonal cottage and there is no change other than to make it possibly somewhat safer. All members agreed.

P. Larochelle stated that factual evidence is not found that property values in the area will be reduced due to incompatible uses. T. Morgan agreed and added that the only comment with respect to property values was made by an abutter who thought it would improve local values. P. Monziona agreed and added that the use is compatible with the neighborhood, and it is the current use. S. Miller agreed and added that the assessment will go up, as will the value.

T. Morgan stated that there are no valid objections from abutters, based on demonstrable fact. There were no objections expressed at all. P. Monziona agreed and added that there was a comment from an abutter who spoke in favor and indicated that it would improve the neighborhood and possibly property values as well. S. Miller and P. Larochelle agreed.

P. Monziona stated that there is no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways or off street parking. Nothing about raising this roof twelve feet will have any impact on pedestrian or vehicular traffic or parking. All members agreed.

S. Miller stated that adequate and appropriate facilities and utilities will not be provided to insure the proper operation of the proposed use or structure; the electrical system will be upgraded and since there are no other utility changes he believes the appropriate facilities will be provided. P. Larochelle and T. Morgan agreed. P. Monziona also agreed and added that the use is not being expanded.

P. Larochelle stated that there is adequate area for safe and sanitary sewage disposal and water supply; the water supply was there before, and this is a seasonal property. T. Morgan agreed and added that the applicant has stated that the number of bedrooms will not change, so there is adequate area for safe and sanitary sewage disposal and water supply. P. Monziona and S. Miller agreed.

T. Morgan stated that the proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan; both of those envisioned the improvement of property on the lake, and this is definitely an improvement. P. Monziona agreed and added that the roof will actually render the structure safer due to the improvement in handling snow load. S. Miller and P. Larochelle agreed.

**S. Miller made a motion to approve the application for Special Exception. P. Larochelle seconded the motion which passed unanimously.**

<b>Z14-23 Karin L. Provencher</b>	<b>Map 36/Lot 9</b>	<b>Variance 58 Spring Street</b>
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*Karin L. Provencher is requesting a Variance to Article 300, Section 327 A.3 to build an 11' X 26" deck that encroaches 6' into the 10' setback requirement due to the leach field placement. This property is located in the Residential Zone.*

The case was read into the record by P. Monziona. Karin Provencher came forward to present the case.

The application was reviewed for completeness.

**S. Miller made a motion to accept the application as complete. T. Morgan seconded the motion which passed unanimously.**

Ms. Provencher stated that she is the owner/occupant of this year-round residence and will be taking up residency on October 20. Right now there is no second egress from the main level; granting this Variance will allow for a second egress. The 6'X12" deck is off to one side, with a staircase that does not encroach on any setbacks or affect the septic system. This is currently and has been a year-round home. When she purchased the home, it came with a failed septic system, so the septic is new and is suitable for a two bedroom home, which is what she has.

P. Monziona questioned the distance from the proposed stairs to the right of way. Ms. Provencher stated that from the edge of the stairs to the right of way is 12'. The staircase, with the new grading and regrading of the driveway, will have only 6 to 8 stairs rather than the full string as shown.

The proposed deck will hang over the leach bed. The Sono tubes supporting the deck are as far out as possible to support the deck and clear the edge of the leach field. The leach field vent is under the deck, to the left.

P. Monziona questioned the proximity of the stairway to the right of way; the stairs will only be 12 feet from the right of way. J. Dever explained that this is a gravel walking path that leads from two other properties to access the water; this is not a driving path.

S. Miller clarified the location of the property; it is off Rand Hill Road and near the Winni-Bay Cabins. S. Miller asked if work has already started; Ms. Provencher stated that it has not. P. Larochelle questioned the location of the well; the well is closer than 75' from the leach bed due to how tight the lot is.

P. Monziona asked if the staircase will be into the 10' setback. The staircase will not encroach at all; the deck will be 6 feet into the 10' setback putting it 4' from the back property line. The deck will be 8 feet 6 inches off the ground; there is a walkout basement due to the pitch of the lot. Ms. Provencher explained that the deck will be bolted to the house, and the Sono tubes will be supporting the outer edge. P. Monziona asked how many tubes there will be; there will be four.

P. Monziona asked about the abutting property affected by the encroachment. Ms. Provencher explained that her neighbor, Bill O'Brian, sits below here; when she is on her deck, she is looking out over his roofline. Mr. O'Brian met with the excavator who installed the septic to discuss the grading. Large rocks were pulled from the O'Brian property to define the property lines, and grading was done on both lots to improve drainage and runoff. P. Monziona asked if the septic system is also encroaching into the setback; Ms. Provencher explained that Tom Varney had obtained approval for that when he did the septic design in 2007 for the previous owners. This approval was renewed this year just prior to installation, as the system had not been installed when it was designed. J. Dever explained that though the state has a regulation about septic systems being located 10' from property lines, the Town of Alton does not have the same restriction. The state does grant waivers if one is warranted.

The house on the abutting property is approximately 60 feet away, and the grading of both lots has improved stormwater management.



The floor was opened to Public Input; there was none. Public input was closed.

**WORKSHEET**

S. Miller stated that the variance will not be contrary to the public interest. It does not interfere with any of the neighbors' enjoyment of their property. There has been a significant accommodation with the neighbors to make sure they were not hurt in any way by the septic system and working to achieve this variance. P. Larochelle agreed and added that there is no creation of fire danger to either residence. P. Monziona agreed and added that management of runoff is being improved.

P. Larochelle stated that the request is in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. T. Morgan agreed and added that the intent of the Master Plan is to improve these old cottages around the lake, and that is what's happening here. P. Monziona agreed. S. Miller agreed and added that he is pleased to see that there is no issue with the health safety and character of the property

T. Morgan stated that by granting the variance, substantial justice will be done; the benefit to the applicant far outweighs any detriment to the community. P. Monziona agreed and added that the improvement to runoff management is a value to the public and thereby increases substantial justice. S. Miller and P. Larochelle agreed.

P. Monziona stated that the request will not diminish the value of surrounding properties; no evidence was submitted to indicate otherwise. All members agreed.

S. Miller stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; 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; the proposed use is a reasonable one. The proposed use is a reasonable one; the addition of the deck will improve the enjoyment of the property owner and will not inhibit the enjoyment of others. Every accommodation has been made to make sure there are no issues with abutters. The property is unusual, which limits the owners' option for addition of a deck and enjoyment of the property. P. Larochelle agreed. T. Morgan agreed and added that the special conditions of the property are the small size and unusual shape, along with the steep pitch. Putting on a deck is a reasonable use, and there is no substantial relationship between the general purposes and the property. P. Monziona agreed and added that the use is consistent and the deck is reasonable with this property. The zoning regulation is set up so that the affect of what is done on one property is minimized in regard to other properties surrounding it; in this case the boundary line is out in the woods, far away from the buildings on the abutting property, and steps have been taken to minimize the runoff to the abutting property.

**S. Miller made a motion to approve the Variance for Case Z14-23. T. Morgan seconded the motion which passed unanimously.**

<b>Z14-24</b>	<b>Map 32/Lot 25</b>	<b>Variance</b>
<b>Jeffrey and Oana Bonomo</b>		<b>47 Riverside Street</b>

*Jeffrey & Oana Bonomo are requesting a Variance to Article 300, Section 327 A.1. to replace the current deck and add to the dimensions so that the deck extends the full length of the house. The present deck is located 12.5' from the edge of the Merrymeeting River and the new deck is proposed to be located 9.7' from the River. The Bonomos are also requesting a Variance to Article 300, Section 327 A.3. to locate the stairs to the new deck 2.8' from the southern side property line. This property is located in the Residential Zone.*

P. Monziona read the case into the record. Jeffrey Bonomo came forward to present the case.

The application was reviewed for completeness. Two variances are being applied for.

**S. Miller made a motion to accept the application as complete. P. Larochelle seconded the motion which passed unanimously.**

Mr. Bonomo explained that the existing deck is in very bad condition and needs to come down. They could put it back up with the exact same specs, but they are hoping to add to it in some places. One would extend the deck the entire length of the house; currently it extends about  $\frac{3}{4}$  of the length of the house with stairs going down. It is small and difficult to get around, especially with a table and chairs on it. They are hoping to expand the deck and make it more functional for the family. They would also like to build a walkway on the left side of the house as you are facing the water. This would allow access to the deck and minimize the number of stairs, as his parents are aging and stairs are going to become more of an issue. Additionally, they would like to wrap a small area of decking around to the right side to maximize storage.

S. Miller questioned whether the river has flooded in that area where the deck is going to be more encroaching and therefore more non-conforming. J. Dever does not know of any flooding in that area. The Bonomos have only owned the house since June, but they spoke to the neighbors to the left and they had no concerns about flooding, nor did they have concerns about the deck. The Bonomos intend to use the cottage throughout the year; they live in Derry but would like to come up as often as they can. This is a four-season home.

P. Monziona mentioned comments made by Deputy Chief Brown of the Alton Fire Department. His comment indicated that the stairs going down from the deck on the south side would be only 10' to 12' from the neighbors' house. Mr. Bonomo explained that he has had conversations with that abutter and he does not have any concerns. Additionally, there are not going to be any stairs there – that is the side they want to have a small portion of the deck wrap around to be used for storage. There will be a walkway with perhaps one step on the other side, which would be the north side.

P. Monziona noted that the entire structure is encroaching; J. Dever pointed out the building envelope noted on the plan. P. Monziona clarified with J. Dever what articles/sections the variances are being requested for. The current deck is 12.5 feet from the river and the new deck will be 9.7 feet. Mr. Bonomo explained that they are not really increasing the size of the deck; the additional encroachment is due to a bend in the river that brings it closer at that point. P. Monziona clarified by statement that when this is all done, they are going to be about three feet further into setbacks; the building is already encroaching into those setbacks.

Lou LaCourse joined the Board at this time, following adjournment of the Selectmen's Meeting.

T. Morgan clarified through questioning that the area shown on the plan at the south side of the house is actually steps; Mr. Bonomo explained that the company that did the rendering included those as steps, but they are not going to be built. Instead, there is going to be a wrap of the deck to include some storage to make the deck more usable. It will be part of the deck but nothing on the ground. P. Monziona asked about support for the deck; Mr. Bonomo acknowledged that this is not his forte, but he thought there would be supports angled back to the house, not going straight down to the ground. P. Monziona asked about the width of the deck; it will be approximately 8 feet.

Mr. Bonomo explained some of the pictures showing neighboring properties with stairs built into the ground. Some of the photos also show the distance to neighboring properties. One of the photos shows the location of the chimney on the Bonomo home; the wrap on the deck will not come as far as

the chimney. S. Miller clarified through questioning where the house is located; he is directly across the river from Levy Park. Mr. Bonomo explained the dimensions of the current deck. Where the house bumps out, the deck is only about three feet wide. The new deck will not be wider than the current, it will simply come the entire length of the house and wrap around at the end. The current deck is condemnable and will have to come down. There was further discussion indicating that the new part of the deck would be supported by Sonotubes; it is possible that the whole structure will have supports going down to the ground.

L. LaCourse suggested an option to expanding the deck without further encroachment into the river setback. Mr. Bonomo explained that they actually have very little land and they are trying to preserve the little bit of land they have so that they can use the tiny yard they have without being under the deck. Various encroachments and options were discussed; the lengthening of the deck as presented causes it to be 9.7 feet from the river at its closest point.

There was no public input for this case; public input was closed.

T. Morgan asked whether the two variance requests would be heard separately or together; after discussion it was decided that the two variances would be tied together and decided in one vote. The final decision was left to Mr. Bonomo.

The Board deliberated briefly concerning conditions as appropriate to the uniqueness of the property. S. Miller suggested a condition that the deck cannot ever be enclosed to extend the living space of the house. Additionally, he suggested that the steps depicted in the plan going on the south side of the building should be specifically addressed as an exclusion. J. Dever pointed out that there are specific exclusions in the statute stating that the deck cannot be enclosed due to its encroachment into the setback. L. LaCourse suggested a condition that the supports need to be positioned at the furthest possible point from the river. P. Monziona acknowledged that the condition proposed is a good one, but he does not want the Board taking on the role of structural engineers, and that the wording should be more general.

## **WORKSHEET**

P. Monziona stated that the variance will not be contrary to the public interest. Given that the structure is already in the setback, and the fact that this improvement to the property will make it safer and overall improve the conditions, there is nothing contrary to the public interest. L. LaCourse agreed. S. Miller agreed and added that what the applicant is trying to accomplish is not unusual for the area. P. Larochelle and T. Morgan agreed.

L. LaCourse stated that the request is in harmony with the spirit of the zoning ordinance and the intent of the Master Plan, and with the convenience, health, safety and character of the district within which it is proposed. He believes that seeing where the land is and how small the lot is, extending the deck is a good idea. The spirit of the ordinance is not to keep the applicant from using his land, but to make sure it is done in a reasonable fashion. S. Miller agreed and added that the safety improvements will not only enhance the character but will provide a better level of safety for the occupants. P. Larochelle and T. Morgan agreed. P. Monziona agreed and added that he was concerned about flooding so close to the river, but the building and deck are already there. The structure is condemnable, so doing this in a sound way architecturally, it will improve the health, safety and character of the property.

S. Miller stated that by granting the variance, substantial justice will be done; the deck currently is difficult even for four people and the additional deck will be more comfortable and safer. This will also provide ease of access for his parents as stairs continue to become more difficult. P. Larochelle agreed. T. Morgan agreed and

added that substantial justice will be done because the benefit to the applicant far outweighs any detriment to the community. P. Monziona and L. LaCourse agreed.

P. Larochele stated that the request will not diminish the value of surrounding properties; if anything it will help improve the value of surrounding properties as it will be more in harmony with other properties existing along the river and will look more in sequence with the rest of them, and it will be a safer place for the family to live. All members agreed.

T. Morgan stated that for purposes of this sub-paragraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area; 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; and the proposed use is a reasonable one. The proposed use is not changing so clearly it is a reasonable one. The property is unusual in that it is a small piece of property that exists on a bend in the river which makes it difficult to build a straight deck and stay away from the river. The general public purpose here is to protect our water resources and that is happening in this instance. All members agreed.

**S. Miller made a motion to approve the application for variance with the following conditions:**

**1 – The steps as depicted on the sketch are not applicable to this variance and need to be stricken as shown on the south side**

**2 – The deck is not to be built up and the deck is not to be included as an expansion of the house toward the river**

**L. LaCourse requested an amendment to locate the supports for the deck as far as legally and structurally possible from the edge of the river. S. Miller accepted the amendment to the motion.**

**T. Morgan seconded the motion which passed unanimously.**

## **VII. OTHER BUSINESS**

A. Previous Business: The search for alternates is ongoing. J. Dever is going to go forth with this.

B. New Business: S. Miller requested that packets be mailed if a member has not picked them up within a few days of the meeting.

C. Minutes: September 4, 2014 – On page 6, 2<sup>nd</sup> full paragraph, 4<sup>th</sup> line from the bottom, “The” should be “They”. On page 8, 4<sup>th</sup> line of the first paragraph, “bring” should be “bringing”.  
**S. Miller made a motion to approve the minutes as amended; T. Morgan seconded the motion which passed with four votes in favor and one abstention (L. LaCourse).**

D. Correspondence: None

## **VIII. ADJOURNMENT**

**T. Morgan made a motion to adjourn; the motion was seconded by P. Larochele and passed unanimously.**

The meeting adjourned at 9:40 p.m. The next regular ZBA meeting will be held on November 6, 2014, at 7:00 p.m. at the Alton Town Hall.

Respectfully submitted,

Mary L. Tetreau  
Recorder, Public Session