

Call to order at 7:00 p.m. by M. Perry, Chairman.

Statement of the Appeal Process The Chairman read a brief 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 gage 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 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.

Introduction of Board Members: Pam McLeod-Alternate, Timothy Morgan, Marcella Perry-Chairman, Timothy Kinnon, Paul Monziona, Stephen Hurst, David Schaeffner-Alternate, Monica Jerkins-Planning Assistant, and Carolyn Schaeffner-Recording Secretary

Appointment of Alternates: None appointed at this time.

Approval of Agenda

Motion by M. Perry to approved the agenda. Second by T. Kinnon. No discussion. Vote unanimous.

Case Z06-32

Map 57 Lot 8

Variance

Ronald & Virginia Witkin

Woodlands Road

Application submitted by Ronald & Virginia Witkin to request a variance from the Town of Alton Zoning Ordinance 2006, Article 300, Section 327(A1) – Setback Requirements - to allow a trellis to be built within the 30' setback requirement. The property is located within the Lakeshore Residential Zone.

Present for this case Ronald and Virginia Witkin.

R. Witkin presented they would like to put a non-enclosed decorative trellis over an existing patio. The structure is 10 feet toward the lake and 12 ft wide.

V. Witkin added they would plant flowers to grow up around it.

P. Monziona asked if the patio is already within the setback.

T. Kinnon asked if the picture is reflective of what they plan to do.

V. Witkin stated yes, no electricity, no walls or roof.

S. Hurst asked if this structure obstructed any abutter view.

V. Witkin stated no.

P. Monziona asked if there was a DES issue with this structure.

R. Witkin stated no.

Open to public input in opposition.

None seen or heard

Open to public input in favor.

None seen or heard.

Board deliberated.

T. Kinnon questioned why this case is before the board and that the tax assessor stated this would not even be assessed for taxes due to the nature of the structure.

M. Jerkins stated the Code Officer suggested it go before the board.

1. The Variance will not be contrary to public interest. All agree.
2. The request is in harmony with the spirit of the Zoning Ordinance and the intent of the Master Plan. All agree.
3. By granting the Variance substantial justice will be done. All agree.
4. The request for a Variance will not diminish the value of the surrounding properties. All agree.
5. An Area Variance is needed to enable the applicant's proposed use of the property given the specific conditions of the property and the benefits sought by the applicant cannot be achieved by another method reasonably feasible for the applicant to pursue other than an area variance. All agree.

M. Perry stated based on the above analysis, special conditions do exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hardship.

M. Perry stated no vote necessary. Informed applicant that their case is approved.

Case Z06-31

Map 15 Lot 56-3, 57, 60

Variance

Carl Norby & David Reynolds

Old Wolfeboro Road & Route 28

Application submitted by Randy Walker, Walker & Varney on behalf of Carl Norby & David Reynolds to request a variance from the Town of Alton Zoning Ordinance 2006, Article 400, Section 452(B) – Restrictions Governing Use – to allow a corner lot with less than the minimum required road frontage. The property is located within the Rural Zone.

M. Jerkins read history of the case.

Memo from NH DOT - On October 3, a representative from NH DOT visited the Planning Office regarding this application. The access that the applicant is requesting to NH Route 28 is the result of being denied a waiver from the 2500 ft road length by the Planning Board. If the applicant is granted the proposed access then the dead end road length is shortened to comply with the road requirements. To gain this access the applicant

submitted a permit application to the State. DOT, during their visit, was hesitant to offer another access point at this location for safety concerns over the proximity of the intersection of Old Wolfeboro Road and NH Route 28 combined with the high speed zone in which this portion of the road with access would be located on the highway. When presented with these concerns, the applicant modified the request for an access to be an emergency only gated access and it is unclear at this point, whether the access will, in fact, be granted by DOT. On August 17, the applicant came before the Planning Board with three different proposals for the road configuration of Ridgewood Lane. None of which mentioned the type of access to NH Route 28 via proposed McDuff Road that the applicants are now proposing. The Planning Board supported a proposal that completely complied with zoning and was depicted by a slight curvature of the road where Ridgewood intersects with Old Wolfeboro Road.

Present for this case: Randy Walker.

R. Walker spoke regarding submitted plans presented to the Planning Board and the only lot that he feels they should be focusing on is Lot 22. The only lot that has an issue which is why they are here for the variance. That lot is considered a corner lot under the Zoning Ordinances and the reasons present tonight is because of the road frontage change that occurred on March 14, 2006. The problem is not that they do not have 200 ft on each road; they have over 500 on three sides and only 52 ft on the 4th side. This is a lot that is completely surrounded by roads. Feels they have more than they need, over 1500 feet of frontage. The lot is 4.6 acres, an oversized lot with 52 feet of frontage on Old Wolfeboro Road and this is what they are seeking the Variance for. Highlighted that 2005 the applicant came before the Planning Board and was approved for a 3 lot subdivision. The applicant was asked to layout their plans if the Board was agreeable.

But due to the change in March of 2006 this changed for 200 feet of frontage for each side of a corner lot not just one, as originally planned. This was not anticipated over a year ago and because of the change in the Ordinance this is needing to be adjusted. Feels this is an unnecessary hardship, with well over 400 feet of frontage for a corner lot. This lot had adequate sight distance, no safety issue. No public or private rights impacted. Abutters have no objection.

There is no other reasonable configuration. Feels this is in harmony with the spirit of the ordinance. Not contrary or negative to public interest. Substantial justice be done – they are not trying to maximize the development of the lot. No negative impact on fair market value.

M. Perry asked if there is any further information from DOT.

R. Walker stated they have been granted a permit.

M. Perry asked about the access of 28.

R. Walker stated that does not have any bearing on this request and will be brought before the Planning Board.

P. Monziona asked about Code Enforcement office comment about access on Ridgeview Lane if this is their intention.

R. Walker confirmed yes.

Open to public input in opposition.

Tom Varney abutter to property. Referred to letter from Mr. McDuff and noted their interest on behalf of Mr. McDuff. Distributed a document on his notes. Noted controlled access on Route 28. Regarding Lot 22 variance. Does not see the hardship because this is one of 22 lots. Feels this is degrading the wetland. Suggested a cul-de-sac on 28 and would make this compliant with zoning. Feels they have room to maneuver. Allowing the variance allows the road to go farther into the woods and he is against this. This is only saving them money. Noted his family has owned his 250 acres since 1790. Does not want houses up against his land and great concern for wildlife. Feels this plan is excessive and an overwhelming impact on the surrounding land. Feels the frontage requirements should be enforced.

Luanne Varney abutter to the property. Distributed map of the three lot subdivision. Read her own perspective of the history of the case. Feels the applicant has misrepresented themselves to the Planning Board with regard to the 3-lot subdivision submitted. Stated that the zoning ordinances should be upheld. Applicant's proposal is not in harmony with the Master Plan. Granting the variance diminishes the value of property and surrounding property.

Open to public input in favor.
None seen or heard.

Rebuttal from Randy Walker – noted the Varney's have been present at every hearing on this case. Noted they cannot see the entrance road from their property. Feels there will not be a fair market impact on their property.

T. Morgan asked to be shown on the map where the DOT permit for the proposed driveway will be located.

R. Walker stated where McDuff Road intersects Route 28.

Richard McDuff stated that yes he has an interest but not as a developer. Plans to keep this land in current use.

T. Kinnon asked about the plan for subdivision on March 2005, asked when the applicant changed to make this a larger subdivision.

R. Walker noted probably in 2004. The reason they did not come in initially is because of the town moratorium.

T. Kinnon asked about the wetlands in lot 22 and driveway impact.

R. Walker noted impact is less than 10,000 sq. ft.

M. Perry asked if McDuff Road was put in to satisfy Planning Board requirements.

R. Walker stated yes.

P. Monziona asked if this is approved then they go to back for subdivision approval.

R. Walker stated yes.

M. Jerkins adding regarding the memo and that there is a plan that would make the variance unnecessary and

this alternative plan is on file with the Planning Office.

T. Kinnon asked why this is not being considered.

R. Walker stated would make 90 degree angle for road intersection. Makes lot 22 smaller with less road frontage. Overall feels this is a better design.

Board moved to deliberate.

General discussion regarding the development of this property and the alternative plans and that the alternative plan does not require a variance. Discussion safety issues on the proposed plan.

1. The Variance will be contrary to public interest. 4 agree. 1 will not be contrary.
2. The request is not in harmony with the spirit of the Zoning Ordinance and the intent of the Master Plan. All agree.
3. By granting the Variance substantial justice will not be done. All agree.
4. The request for a Variance will not diminish value of surrounding properties. All agree.
5. The Variance is not needed to enable the applicant's proposed use of the property. There are other ways to make use of the property and the benefit sought by the applicant can be achieved by some other method reasonably feasible. All agree.

M. Perry stated, based on the above analysis, special conditions do not exist that such a literal enforcement of the Zoning Ordinance results in unnecessary hardship.

Motion by T. Kinnon to deny Case Z06-31 as submitted. Second by S. Hurst. No discussion. Vote unanimous.

T. Kinnon recused himself from the following case.

T. Morgan recused himself from the following case.

P. Monzione recused himself from the following case.

**Case Z06-24
Gillan Marine**

Map 32 Lot 13

**Variance
Alton Bay (NH Rte 11)**

Application submitted by Roger Roy, MJS Engineering on behalf of Ernest Gillan, Gillan Marine to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 325(18)- Off Street Parking – Minimum Parking Requirements – to allow a marine sales business to expand the existing boat sales use without having to meet the parking requirements required of a retail establishment. The property is located within the Residential Commercial Zone. Continued from the September 7, 2006 hearing.

At 8:13 p.m. applicants requested a brief recess to discuss the Board representation of two members and two alternates to hear their case.

At 8:21 p.m. the meeting resumed.

T. Kinnon explained why he felt he should step down. Removal all perception of conflict of interest. Has

previously worked for Mr. Gillan and feels confident he can make an impartial and fair decision. With this said he would like to reinstate himself to this case.

Attorney Hoover feels that his client has a say in the decision for Mr. Kinnon to reinstate himself.

R. Roy feels they do not have a say in this decision.

Alternates David Schaeffner and Pam McLeod have been appointed for this case.

Present for this case: Roger Burlingame, Mike Seever, and Ernie Gillan, Sr.

M. Seever referred to the plans submitted with explanation regarding the parking spaces. Justification for 1 space per 1000 sq ft from definitions under Marina requirements and Institute of Traffic Engineers, Parking Generation. Feel ratio of 1 space per 300 sq ft is excessive.

R. Burlingame referred to the history of the property. Feels this is a business that does not generate a lot of traffic for spaces. Referred that new building will replace footprint of existing building some existing parking. This is a change in the nature of display of their product. This building will allow an extension of the season for the marketing of boat sales. This change will not increase the intensity of parking spaces needed. Discussed the definition of Boat Sales and in the zoning it states to "See Marina". This business is not operating as a marina. They are operating as boat sales and boat storage. Stated the Planning Board has required a variance for the space requirement. Stated this is not a use variance but an area variance. With regard to hardship this variance is necessary. Water treatment consumes a large portion of the property. Question is whether or not the applicant's proposed use can be conducted some other way without a variance and if not then the applicant is entitled to the variance. Referred to a case where the decision for an area variance presumed reasonable. Suggested to look at the proposal before the Board and not what they feel it is. Unnecessary hardship reasonably feasible for the applicant. Variance is consistent with the spirit of the ordinance. Granting the variance will not change the current operation. Variance will not be contrary to the public interest. Substantial justice will be done. Feels other property owners in the area are using their property for parking without a required variance. Variance will not diminish the surrounding property.

M. Perry asked about an area on the plans.

M. Seever and E. Gillan stated it was proposed septic.

Discussion of where parking is located on plans. 2 for employee and 9 for public parking.

M. Perry feels this is a retail business and this requires 38 spaces under this definition.

T. Kinnon concern for snow storage.

M. Seever noted this is located in the treatment swales.

T. Kinnon asked about the square on another snow storage area.

E. Gillan noted this is a basin to contain road sand. This is not required and they have voluntarily decided to put

this in.

S. Hurst asked about the 20 spaces short. Asked if the larger display facility will increase public activity.

E. Gillan stated this will increase during the winter season activity which is substantially low. Keeps the product inside for display.

S. Hurst concerned for not having adequate parking if they expect the business to expand.

D. Schaeffner asked what is the number of boats planned to display in new facility.

E. Gillian depends on size but probably approx 15. Mostly for display.

M. Perry asked about customer count.

E. Gillian 10-12 boat registrations on a busy day. 6 people for sales on a busy weekend.

Opened for public input in favor
None seen or heard.

Opened for public input in opposition.

Arthur Hoover present on behalf of Steve Parker and David Parker for Parker Marine.

A. Hoover stated this should be strictly on variance of parking as it pertains to retail. Referred the Board to look at overall picture. Not enough room for a business that would like to expand. For retail business including both sites on both sides of the street they actually should be 40-45 spaces. Referred to their proposal for supermarket urban during the week they should be required for 26 spaces. Customer not replaced in boat sales as you would in grocery store. If a lumber store it would actually be required for 26 spaces during the week. Ask to look at what is reasonable. Reality is parking will spill over into the street parking in a generally very busy area. Feels numbers have been misrepresented. Addressing to hardship. The rules for any retail use are consistent. Is this a permitted use, yes. Asked what are special conditions. Feels they want to add more boats and feels there is plenty of room for parking. If the building is going to store boats that will free up parking. Stated that just moving the boats, the required parking is feasible. This is just a business decision on the part of the owner. Granting the variance is not in the best interest to the public interest. Concern for safety issue. Regarding diminishing property value and granting the variance has an impact on other area businesses. Off street parking should be provided for required use when expanding a building. Public interest is safety, less density, control, reasonable access for area business customers.

David Parker abutter.

Feels applicant presentation is not what he sees or witnessed. Stated their comment that the current six spaces have been adequate is completely false. Stated that he had said in 1988 this was eventually going to become a problem and this is now problem. Been at the location for 30 years and knows the summer weekend inflow well. Stated 11 spaces are completely inadequate. Not unusual to have 20-25 customers but need more than 2 employees. Discussion of non-peak and peak operations. Overflow has come into his property. Large delivery

transport trucks are a problem. Described the area traffic. Described environmental impact. Feels need to look at safety and environment first and not profit. Currently there is a parking shortage. Negative and harmful affect on his property.

Rebuttal by Attorney Burlingame.

R. Burlingame noted a number of things mentioned are totally irrelevant to the current request. The two sides of the street are two separate businesses. They are replacing outdoor display to indoor display. Feels there is no background for abutter stating this plan will increase parking requirements. Feels Mr. Gillian has the right for his customers to use public parking.

M. Perry asked how generally how many boats are stored outside.

E. Gillan stated depending on size 40-50.

M. Perry asked if this building will displace some of this outside space.

E. Gillan they do not plan to increase the number outside but most of his property is assigned to green space and run-off.

P. McLeod asked if Mr. Gillian is planning to increase total number of boats, inside and outside.

E. Gillan stated due to the economy he is not increasing any numbers.

P. McLeod clarified she was speaking of space increase, would it accommodate more boats than he currently has inside and outside.

E. Gillan stated yes.

T. Kinnon asked about other configurations to get close to 39 parking spaces.

E. Gillan original plans did allow for this but they could not get a delivery truck for turn around and plans were changed. There are places extra places but they are not designated.

S. Hurst asked about service work.

E. Gillan basic warranty work, battery replacement, oil changes, etc.

S. Hurst asked where this work is performed.

E. Gillian stated the sales side of the property.

General discussion on local businesses supporting the Master Plan. Concern for the difference between the two numbers 11 vs 39. Feels this will also be an improvement to the property and area. A lot of the businesses in the area use street parking. This is a difficult area. Noted the street parking is extremely difficult to access.

Board moved to deliberate

1. Variance will not be contrary to public interest. 4 Agree. 1 contrary – number being proposed is inadequate.
2. Granting the Variance is in harmony with the spirit of the ordinance. 4 Agree. 1 contrary.
3. In granting the Variance substantial justice will not be done. 1 Agree 4 contrary that substantial justice will be done.
4. Granting the Variance will not diminish to value of the surrounding properties. All agree.
5. Granting an Area variance is needed given the special conditions of the property. 4 Agree. 1 contrary – feels this can be achieved by another means.

Motion by T. Kinnon to approve Case Z06-24 as presented. Second by P. McLeod. No discussion. 4 in favor. 1 opposed. Vote unanimous.

**Case Z06-25
Gillan Marine**

Map 32 Lot 13

**Special Exception
Alton Bay (NH Rte 11)**

Application submitted by Roger Roy, MJS Engineering on behalf of Ernest Gillan, Gillan Marine to request a variance from the Town of Alton Zoning Ordinance, Article 300, Section 328.C, Height Restrictions – to allow the cupolas to exceed the 35’ maximum building height. The property is located within the Residential Commercial Zone. Continued from the September 7, 2006 hearing.

Motion by M. Perry to continue case Z06-25 to Monday, October 23, 2006 at 6:30 p.m.. Second by T. Kinnon. No discussion. Vote unanimous.

**Case Z06-33
James N. Lund**

Map 42 Lot 30

**Variance
Trask Side Road**

Application submitted by Thomas W. Varney on behalf of James N. Lund to request a variance from the Town of Alton Zoning Ordinance 2006, Article 300, Section 327(A3) – Setback Requirements – to build a garage and addition within the 10’ property line setback requirement. The property is located within the Lakeshore Residential Zone.

Motion by M. Perry to continue case Z06-33 to Monday, October 23, 2006 at 6:30 p.m. Second by T. Kinnon. No discussion. Vote unanimous.

P. McLeod excused herself from the meeting.

OTHER BUSINESS:

1. Approval of Minutes: May 11, 2006; September 7, 2006

Discussion of May 11 minutes.

Motion by T. Morgan to approve the minutes of May 11, 2006 as written. Second by M. Perry. No discussion. Vote unanimous.

Discussion of September 7, 2006 minutes.

M. Jerkins recorded changes.

Motion by M. Perry to approve the minutes for September 7, 2006 as corrected with the Planning Assistant.
Second by T. Morgan. No discussion. Vote unanimous.

2. Correspondence: None.
3. Old Business: None.
4. New Business: None.

Motion by T. Kinnon to adjourn. Second by P. Monziona. No discussion. Vote unanimous.

Respectfully submitted,
Carolyn Schaeffner, Recording Secretary