

APPROVED December 7, 2006

**Call to order at 6:35 p.m.** Meeting called to order by Marcella Perry.

**Approval of Agenda**

**Motion** by M. Perry to approve the agenda as presented. Second by T. Kinnon. No discussion. Vote unanimous.

**Introduction of Board Members** Steve Hurst, Timothy Kinnon, Marcella Perry-Chairman, Timothy Morgan, Monica Jerkins-Planning Assistant, Carolyn Schaeffner-Recording Secretary,

**Statement of 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.

**Appointment of Alternates** none present to appoint.

T. Morgan recused himself from this case.

M. Perry noted that there were only three sitting member and asked the applicant if they wanted to continued.

Roger Burlingame stated they wanted to proceed.

**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 special exception 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.

Present for this case: Roger Burlingame and Ernie Gillan, Jr.

R. Burlingame presented history of the case and why they are present this evening from the request of the Alton Planning Board. Qualify under special exception for the following reasons. 1. There is a plan submitted in accordance with 520b. 2. The specific is an appropriate location. 3. No objection from abutter based on demonstrable fact. 4. No undue nuisance or serious hazard to pedestrian or vehicular traffic. 5. Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed structure 6. Adequate area for safe and sanitary sewage disposal and water supply. 7. Proposed structure is consistent with

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the Zoning Ordinance and the intent of the Master Plan. Section 328 b and c. Notes that the ZBA may issue a special exception to height restrictions in any zone provided the structure (the cupolas) do not constitute a hazard to any established airport. Noted that there will be no effect on lake airport. Feels they have met the criteria in from the Zoning Ordinance contained in Section 520 and 328.

Open to the public in favor or in opposition.

None seen or heard.

Closed public input.

Board moved to deliberate.

M. Perry noted maximum height is 42 feet and does not see an issue.

E. Gillian possible light in the center for aesthetic purposes.

T. Kinnon noted there are a lot of other lights in the area and this will not stand out.

After reviewing the petition and after hearing all of the evidence and by taking into consideration personal knowledge of the property in question, the Town of Alton Zoning Board of Adjustment has determined as follows:

1. A plat has been accepted by the Planner in accordance with Alton Zoning Ordinance Section 420 b. and a recommendation has been made. **All agree.**
2. The specific site is an appropriate location for the use. **All agree.**
3. Factual evidence is not found that the property values in the district will be reduced due to incompatible uses. **All agree.**
4. There is no valid objection from abutters based on demonstrable fact. **All agree.**
5. 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. **All agree irrelevant to this proposal.**
6. Adequate and appropriate facilities and utilities will be provided to insure proper operation of the proposed use or structure. **All agree irrelevant to this proposal.**
7. There is adequate area for safe and sanitary sewage disposal and water supply. **All agree irrelevant to this proposal.**
8. The proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. **All agree.**

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**Motion** by T. Kinnon to approve case Z06-25 as presented. Second by S. Hurst. No discussion. Vote unanimous.

T. Morgan resumed his seat on the board.

**Case Z06-33**

**Map 42 Lot 30**

**Variance**

**James N. Lund**

**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.

Noted there are only four Board members present for this case.

The applicant stated they will go forward this evening.

M. Jerkins read the Planners Comments.

**Motion** by T. Kinnon to accept the application for Case Z06-33. Second by S. Hurst. Motion passes with a unanimous voice vote.

Present for this case: Tom Varney, James N. Lund and Robin Porter.

T. Varney showed to the Board pictures of the property and the proposed area, pictures of garages on other properties on Trask Road, and pictures of some other houses of what they would like to replicate. Submitted same to be part of the record. Referred to the colored markings on the plans submitted. History of project, came several months ago and were told that the plan was inaccurate. Boundary Line dispute has been settled. Referred to survey by George Chrisenten and both parties agree with this survey. Abutter is in agreement to proposed plan. Mr. Lund gave up 6 feet of frontage and in return Mr. Irving, abutter, agreed to proposed plan. This is to fix a drainage and mold problem, and to store vehicles. Moving the house does not work with the septic. Drainage is graded to flow back on Lund property.

J. Lund noting to pictures where proposed addition will go. Noted also poor drainage in basement and how it is affecting the foundation.

R. Porter feels this is also a health issue with regard to the mold.

T. Kinnon asked if the property line on the plans is the same as the court agreement.

T. Varney confirmed yes.

T. Morgan asked about garages shown on Trask Road if any of these were granted variances.

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J. Lund thought it was before current zoning.

T. Morgan asked about the arborvitae.

J. Lund noting to the plans how "phase 1" landscape plan was done. This is all done per the court agreement.

M. Perry asked about the area in front of his home.

T. Varney stated about 50 x 50.

T. Kinnon asked of the size of the leech field.

T. Varney noted about 20 x 30 approximately, 25 ft away from the house.

Open to public input in favor.

Pat Rockwood, Peter Rockwood, Jaime Rockwood. Neighbors but not abutters. Would like to express their agreement of the project and sees the need in what it is doing to his property.

Arthur Hoover, representing Donald Irving. Comment they were not aware the applicant was "surrendering" some water front. Felt that what they agreed on was a common boundary line established by survey. The discussion did not revolve around "who got what" in addition to footage. The agree states they will not object to the application which is different that what was presented by Mr. Varney.

T. Morgan question on the agreement being enforceable.

A. Hoover stated yes.

Open to public input in opposition.

None seen or heard.

Closed public input.

T. Kinnon feels that noting where the leech field is located there is not much room for an alternative plan.

M. Perry noting Lakeshore Residential Zone and each application is separate and not comparing what others have done in proximity to the property. Noted Code Officer stated this garage could be placed differently within the setbacks.

T. Kinnon stated Mr. Varney did mention they looked at other options but they did not work. Noting the size of the leech field there is no other place to put this.

After reviewing the petition and after hearing all of the evidence and by taking into consideration personal knowledge of the property in question, the Town of Alton Zoning Board of Adjustment has determined the following:

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Criteria	Statement
Public Interest	The variance will not be contrary to the public interest. <b>3 Agree, 1 Disagree.</b>
Spirit of the Ordinance	The request is not 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. <b>1 Agree, 3 Disagree.</b>
Substantial Justice	By granting the variance, substantial justice will be done. <b>3 Agree, 1 Disagree.</b>
Value of Surrounding Properties	The request will not diminish the value of the surrounding properties. <b>3 Agree, 1 Disagree.</b>
Hardship	An area variance is needed to enable the applicant's proposed use of the property. Benefit cannot be sought or achieved by some other method reasonably feasible. <b>3 Agree, 1 Disagree.</b>

Summary statement (no vote needed): Based on the above analysis, special conditions do exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hardship. **3 Agree, 1 Disagree.**

**Motion** by T. Kinnon to approve case Z06-33 as presented. Second by T. Morgan. No discussion. 3 in favor. 1 opposed.

**OTHER BUSINESS:**

1. Approval of Minutes: None to approve at this time
2. Old Business: Gillan: Motion for Rehearing. Received a motion for rehearing. Will be assigned a case number which will required notification for the abutters. A. Hoover does not feel it is necessary that the abutter need to be noticed. If the Board votes to grant the rehearing then the abutters need to be noticed. Discussion on how this should be heard and noticed. On the November agenda under Old Business.
3. New Business: Prospect Mountain High School, request for special hearing date for an application for a sign that exceeds the sign requirements. Would like the board to grant a special hearing to hear this one case .  
**Motion** by M. Perry that the Board adhere to policy and they must conform to the date requirements. Second by S. Hurst. No discussion. Vote unanimous.

4. Correspondence: None presented.

Other : T. Kinnon and J. Dube met with Attorney Sessler. The Board will be looking at a Variance Request on the cell tower. Scheduling a date on November 2 to hear these variances.

M. Jerkins asked about an appeal.

T. Kinnon stated the planning board has not made a decision on the finding.

ALTON ZONING BOARD OF ADJUSTMENT  
ALTON TOWN HALL

October 23, 2006  
6:30 p.m.

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**Motion** by M. Perry to adjourn. Second by T. Kinnon. No discussion. Vote unanimous.

Respectfully submitted,  
Carolyn Schaeffner, Recording Secretary