

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Members Present:

Paul Monzione, Chair
Lou LaCourse
Tom Hoopes
Scott Williams
Tim Morgan

Others Present:

Nic Strong, Town Planner
Jessica A. Call, Planning Secretary

CALL TO ORDER

Paul Monzione called the meeting to order at 6:10 p.m.

APPROVAL OF AGENDA

**Tom Hoopes moved to approve the agenda as written.
Scott Williams seconded the motion and it PASSED unanimously.**

CONTINUED BUSINESS

Continued Business:

Review of the 2017 Amendments to Alton's Zoning Ordinance, draft dated October 28, 2016 - Second Draft.

Paul Monzione asked Nic Strong how they would go about reviewing the amendments. She stated that she had put all of the comments and suggestions from all of the past meetings in Amendment form. She also drafted explanations for all of the updated Amendments, plus another document that included the amendments and explanations, which were set up in ballot question format.

Paul Monzione asked Nic Strong if Amendment #1 had to do with definitions and would they be grouped into one. She stated no, the way she had done the revisions was by looking at older Town Reports, in which substantive amendments were first and the "housekeeping" type at the end. Amendments 1-6 were the most substantive ones.

Nic Strong went on to review the Amendments as follows:

Amendment #1: Nic Strong mentioned there were subsections to this, but it all had to do with Accessory Dwelling Units; it didn't make sense to have them as separate Amendments because it all had to go together as a package due to changing the section, Definitions, and Table of Uses, and there was no point in having one pass and one fail. Tom Hoopes suggested to add a sentence in the explanation to explain to the citizens what would happen if they didn't approve this Amendment. He also stated that the Amendment needed to pass because the RSA had been updated by the State, otherwise, residents would be able to do what they wanted. Paul Monzione

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

had questioned item #9, parking requirements. Scott Williams stated that under Definitions it requires any apartment or accessory unit to have two (2) parking spaces. Nic Strong stated that it included any dwelling unit. She stated that the definition they were reviewing was already listed in the apartment section. Paul Monziona stated that the Zoning Amendment Committee had eliminated parking requirements in the Zoning Ordinance and left it up to the site plan review for the Planning Board to determine; this way the Applicant would be able to present to the Planning Board if the parking was adequate. He also stated that in the past, the Town had a blanket Zoning Ordinance for all parking and it got to be troublesome and was like the Zoning Board of Adjustment was micro-managing each project. Paul Monziona stated with that said, he believed that the parking requirement was eliminated. Nic Strong stated that the parking requirements would have to stay, because in this instance it was a residential use that would not be brought in front of the Planning Board for site plan review. The Committee agreed with the recommendations.

Explanation #1: Lou LaCourse suggested to move the sentence “This proposed amendment updates Alton’s existing accessory dwelling unit ordinance to be in compliance with statute while remaining consistent with the aesthetics and existing requirements of the town’s zoning districts.” to be beginning of the paragraph because it gets to the point of why this amendment was suggested. Tim Morgan agreed with Lou LaCourse to move the sentence. Also, Tim Morgan suggested that the comment Tom Hoopes made about the reasons why this Amendment needed to pass be added to the end. Nic Strong stated that the only difference was if it didn’t pass, accessory dwelling units could go anywhere in the Lakeshore District without a Special Exception requirement; all other districts were covered already because of an existing section in the Zoning Ordinance. Paul Monziona asked Nic Strong if the only change they were going to do this year had to do with the use of the term “Dwelling Units” to be consistent with the language that is written in the statute. She stated no, it also included requiring a Special Exception in the Lakeshore, and the fact that an accessory dwelling unit could only be inside or attached to an existing dwelling; they can’t be detached. Lou LaCourse suggested that “State” be inserted in the newly proposed first sentence before the word “statute”. Paul Monziona went ahead and read the revised explanation: “This proposed amendment updates Alton’s existing accessory dwelling unit ordinance to be in compliance with State Statute while remaining consistent with the aesthetics and existing requirements of the town’s zoning districts. State law was revised in 2016 to require that NH municipalities allow attached accessory dwelling units in all zoning districts that permit single-family dwellings. The law becomes effective in June of 2017.”. The Committee agreed with the recommendations.

Paul Monziona explained that the Committee should make a motion to submit the amendment to the Planning Board at the joint meeting along with the explanation as changed.

Tom Hoopes moved to forward Amendment #1 and Explanation #1 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Amendment #2: Paul Monzione mentioned this Amendment had to do with Sign Regulations. He noted that Nic Strong, at the last meeting, asked that the Committee articulate into the record the reasoning behind the requirements of size in the different zones. Nic Strong stated that it was the reasoning behind the size of temporary signs in the Lakeshore and Residential Districts that was needed. She stated that at the last meeting everyone present understood the reasons, but it wasn't specifically stated that it was because of small lot sizes or density already in the district, so having a statement or description in the minutes to specify would be helpful. Tom Hoopes stated that it was respective to the size of the signs. Paul Monzione mentioned that along with the reasons Nic Strong had just stated, the Zoning Amendment Committee ("Committee") also took into consideration the size of the signs allowed under the current Zoning Ordinance for permanent signs. He also mentioned that the Committee talked about allowing temporary signs to be larger than the maximum permitted for permanent signs because they were temporary and it would give a commercial business the opportunity to become a landmark and have better exposure. Paul Monzione also pointed out that political signs nowadays were as large as 4' x 8' and that the Committee didn't want to necessarily cause an enforcement problem for the town. He stated as far as signs being smaller in the Lakeshore and Residential Districts, was due to the area being more congested, having smaller roads, consideration of lot sizes, safety or traffic hazards, and the aesthetics; so basically the Amendment had to do with the size of the sign and not the content. The Committee agreed with the recommendations.

Explanation #2: Lou LaCourse suggested to take the last sentence and put it first. Tim Morgan pointed out a typo in the current first sentence; it should read "signs" and not "sign." Paul Monzione suggested to take out the phrase: "...such that you would have to read the sign itself to determine which category it would be in and therefore which requirements it would have to comply with.", it would leave the sentence to state the following: "...if a town's sign regulation contains different requirements for different types of sign, that regulation is probably unconstitutional and invalid.". He also suggested to change the phrase: "for different types of sign" to "for different types of content." The Committee agreed with the recommendations.

Tom Hoopes moved to forward Amendment #2 and Explanation #2 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendment #3: Tim Morgan pointed out that there was a comma missing from C. 6. after the word antennas. Paul Monzione stated that this amendment is being changed to comply with NH legislation that was effective as of September 2013. The Committee agreed with the recommendation.

Explanation #3: Tom Hoopes suggested to take the sentence: "This proposed amendment by the Planning Board changes various definitions in the existing Zoning Ordinance to comply with the statutory changes, reflects the changes with regard to modifications to, and co-locations on, personal wireless service facilities and also deletes requirements for proof of investigation into existing structures which the recent statutory changes prohibit." and put it first. Tim Morgan suggested the amendment start with the sentence: "The amendment specifies what the Town can

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

require in terms of site plans for new facilities and substantial modifications to existing facilities and building permits for modifications and co-locations in order to be compliant with State law and adds requirements regarding bonding, security and insurance.” He then suggested the next sentence be: “The NH Legislature enacted changes to RSA 12-K, Deployment of Personal Wireless Service Facilities, effective September 2013.” Paul Monzione pointed out that the newly proposed first sentence should include “proposed” in front of the word “amendment” to be consistent with other Amendments; also in the same sentence, he suggested to include “Personal Wireless Service” after the word new and to capitalize “facilities” in the first part of the sentence. Tom Hoopes suggested the second sentence be removed: “The changes involved differences between what are classified as modifications, co-locations and substantial modifications and the permitting and approval processes that may be required for each type of application.” Paul Monzione suggested to delete out a phrase from the following sentence because it already referred to co-locations in another sentence: “This proposed amendment by the Planning Board changes various definitions in the existing Zoning Ordinance to comply with the statutory changes, and deletes requirements for proof of investigation into existing structures which the recent statutory changes prohibit.” Paul Monzione then read the proposed Amendment with changes: “This proposed Amendment specifies what the Town can require in terms of site plans for new Personal Wireless Service Facilities and substantial modifications to existing facilities, and building permits for modifications and co-locations in order to be compliant with State law and add requirements regarding bonding, security and insurance. The NH Legislature enacted changes to RSA 12-K, Deployment of Personal Wireless Service Facilities, effective September 2013. This proposed amendment changes various definitions in the existing Zoning Ordinance to comply with the statutory changes, and deletes requirements for proof of investigation into existing structures which the recent statutory changes prohibit.”

Lou LaCourse and Paul Monzione had similar suggestions to make a blanket statement at the top of the page that states: “Proposed Amendments #1-3 are made to comply with recent changes in State statute or Federal law.” Paul Monzione asked Nic Strong to check with Jim Sessler, Town Counsel, if a blanket statement can be added to the top of the ballot. The Committee agreed with the recommendations.

Tom Hoopes moved to forward Amendment #3 and Explanation #3 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendment #4: Tim Morgan suggested that the phrase: “...list of uses from which a sexually oriented business must be located 500’ away...” to: “...list of uses which a sexually oriented business must be located 500’ away from...”. The Committee agreed with the recommendation.

Explanation #4: Lou LaCourse had a problem with how the second sentence was worded. After some conversation amongst Committee members, Nic Strong suggested the following change: “This proposed amendment would add several new definitions and categories of child care programs which were adopted in 2016 to the list of uses in the sexually oriented business section

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

from which such businesses must be located 500' away from." The Committee agreed to the recommendation.

Scott Williams moved to forward Amendment #4 and Explanation #4 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Lou LaCourse seconded the motion and it PASSED unanimously.

Amendment #5: There were no recommended changes.

Explanation #5: There were no recommended changes.

Scott Williams moved to forward Amendment #5 and Explanation #5 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Tom Hoopes seconded the motion and it PASSED unanimously.

Amendment #6: Nic Strong informed the Committee that #1. needed to state section "363.". She also went on to explain that the additional Special Exception criteria for Commercial Solar Energy Systems, which are accessory to businesses, was located in section F. Paul Monzione confirmed with Nic Strong that the 520 Special Exception criteria still applied, along with the additional criteria. Nic Strong further went on to address the solar glare issue that was brought up at the last meeting could be found in section F. #2.

Paul Monzione suggested that the Committee members not at the last meeting take some time to read over the newly recommended Solar Energy Systems section. As Paul Monzione began to briefly read over the four (4) systems, Scott Williams brought up an important point that wasn't previously addressed when creating this Amendment, which is the size of the unit. Scott Williams thought it was unfair if a Commercial business wanted to erect solar panels that were the same size as an Accessory or Residential Solar Energy System they would have to go to the Zoning Board of Adjustment and ask for a Special Exception, but if a Resident wanted to erect solar panels, they didn't have to. Paul Monzione agreed with this point.

The Committee members then proceeded to read over the four (4) systems again. Paul Monzione mentioned that the first two (2), Accessory or Residential and Building Integrated Solar Energy Systems would be permitted accessory uses in all zoning districts and would be subject to setback and height requirements in the district in which the system was located, and the general provisions in Section D. The third system, Commercial Solar Energy System, were permitted accessory uses in all zoning districts and would be subject to setback and height requirements in the district in which the system is located, the general provisions in Section D., a Special Exception from the Zoning Board of Adjustment as described in Section F., and Site Plan Review from the Planning Board. Nic Strong went on to explain that at the last meeting the Amendment was first drafted to not require Special Exception, then there was some discussion about prohibiting the systems from the Lakeshore Residential District, and then there was some discussion about if that was done, that would affect the businesses there already, so it was suggested to allow them but require a Special Exception and a Site Plan. Lou LaCourse

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

mentioned that originally the Committee was going to require a Special Exception for free-standing systems; Nic Strong stated that eventually the Committee decided not to, but if an issue arose in the future, it could be addressed again.

Tim Morgan pointed out the only difference between Accessory or Residential and Commercial Solar Energy Systems was if you had a system on your house you could sell back to the grid through net metering, and if you had a commercial system you could off-set utility costs or it could be an additional revenue stream, but was unsure if you could earn revenue. Scott Williams stated that you could earn revenue or sell it back to the grid. He then went on to explain net metering, for example, a person generated 1,000 kwh a month, but only used 500 kwh, the other 500 kwh not used would go into a bank for use later on in a month where you go over the kwh generated for that month. Tim Morgan asked Scott Williams what the difference was between net metering and an additional revenue stream. Scott Williams stated he would use his solar system as an example to answer his question. He went on to explain that at the end of the year he receives a letter from the electric company asking him if he wants to stay with net metering or sell it back to them per kwh at a small fraction of its cost. Tim Morgan stated that if the only difference was the manner in which you are paid, then maybe that should be the reasoning behind whether they would need a Special Exception or not.

After some discussion amongst Committee members, they came to an agreement that a Special Exception would be required based upon the generation capability of the system itself. Paul Monzione asked the Committee to come up with a change in the definition for Commercial Solar Energy Systems based on kwh. Nic Strong suggested that #3. Commercial Solar Energy Systems read: "...subject to setback and height requirements in the district in which the system is located, and the general provisions in Section D. above. A Special Exception from the Zoning Board of Adjustment as described in Section F. below, and Site Plan from the Planning Board will be required for any system over 25 kwh.". Paul Monzione pointed out to Nic Strong that the definition in Section C. would have to be changed also. Scott Williams suggested that the Accessory or Residential Solar Energy Systems definition include language that specifies up to 25 kwh so it was clear as to what was permitted. Nic Strong pointed out that the language currently in the Accessory or Residential definition stated: "...excess energy may be sold back to the grid through net metering"; Scott Williams stated that technically one is not selling it back with net metering because you are not receiving cash, you are in fact receiving kwh back. Scott Williams suggested to change the wording in Section F. to: "F. Special Exception for Solar Energy Systems over 25 kwh". Tim Morgan inquired if this would change the Table of Uses. Nic Strong agreed that it would have to change because currently it lists "yes" across all zones, but it should state that a Special Exception is required for a system over 25 kwh; she will insert an E the Table of Uses under each zone. Paul Monzione asked the Committee if they had any other changes to this section. Nic Strong stated that under Section G. #2, the height of the fence needed to be addressed. She reached out to the Public Utilities Commission to see if they had any guidelines and they didn't, but they referred her to the New Hampshire Sustainable Energy Association who contacted a large commercial solar company, Borrego Solar. Their standard that they have used for eight (8) years is a six-foot fence with one foot of barbed wire. If one didn't want to use barbed wire, just make it seven (7) feet. Scott Williams asked why would the

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Committee require a fence because why would the ordinance want to preclude the wildlife from using the property. Paul Monzione stated that the perimeter fence would be located around the panels. Scott Williams stated that he had seen farms where their animals are grazing on the property and there are no fences located around the panels, partly because the panels are located six (6) feet off the ground. Lou LaCourse stated that the Committee came up with the idea of a fence for safety reasons. Scott Williams stated that one would not get electrocuted by the panels because they generate power in D/C with only 250 volts, would will not hurt you because there is no current and it would be a shame to take that out of the ecological balance of the wildlife. After some discussion, Tom Hoopes suggested that a fence only be put in place, for example, if a solar system was located off a main road, just have a fence installed in front of the lot where it can be seen from the road. Paul Monzione suggested that the fence height be six (6) feet. He noted that the Special Exception language stated “The Utility Scale Solar Energy System/Solar Farm should be enclosed by perimeter fencing to restrict unauthorized access at a height of six (6) feet, unless it is demonstrated to the Zoning Board of Adjustment’s satisfaction that the Solar Energy System is adequately protected in a different fashion.” He noted that this offered an alternative to fencing in certain circumstances. The Committee agreed to the recommendations.

Explanation #6: Lou LaCourse suggested to take the last sentence and make it first. Also, where is says “...for such systems...”, change it to read: “...larger solar energy systems...”. Paul Monzione suggested that the amendment read: “This proposed amendment adds a new section regarding solar energy systems that describes the types and sizes of system, ranging from roof top residential use to a large scale utility solar farm. The ordinance specifies that residential systems will continue to be permitted in all districts with a building permit. Larger scale systems will require varying levels of review and permitting by the Town in different zoning districts.” Scott Williams suggested to strike out the word residential and replace it with “solar” since the amendment was changed to be “up to 25 kwh”. Lou LaCourse suggested to add “less than 25 kwh” after “The ordinance specifies that solar systems...”. The sentence would now read: “The ordinance specifies that solar systems less than 25 kwh will continue to be permitted in all districts with a building permit.” Paul Monzione also suggested to take out the first two (2) sentences to make it easier to read. The Committee agreed to the recommendations.

Tom Hoopes moved to forward Amendment #6 and Explanation #6 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendments #7 - #15 are minor “housekeeping” amendments submitted for the voter’s consideration. Paul Monzione confirmed with Nic Strong that she was going to have the previous sentence as a general statement at the beginning of this section, just like Amendments #1 through #3. She agreed.

Amendment #7: There were no recommended changes.

Explanation #7: There were no recommended changes.

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Tom Hoopes moved to forward Amendment #7 and Explanation #7 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Lou LaCourse seconded the motion and it PASSED unanimously.

Amendment #8: Nic Strong suggested to the Committee that they read Commercial Function Facility. She needed clarification on the first sentence as to whether the facility was “exclusively” or “predominantly.” Paul Monzione stated that there was an issue with an application that had been presented to the Zoning Board of Adjustment where they wanted to have a function facility but also wanted to keep their horse farm on the same property. They were asked if they were creating a facility that was exclusively for functions, and if they were they meet the zoning regulations, and if they weren’t and were doing it as an accessory or ancillary to their other business, then they weren’t a function facility. The problem was once they said they weren’t exclusively a function facility but yet they were applying, he wasn’t sure they had to be there because they weren’t exclusive. Paul Monzione suggested to get rid of the word “exclusively” and Nic Strong and Scott Williams suggested to get rid of the word “predominantly.”

Paul Monzione was wondering what would happen if a horse farm wanted to have weddings on the weekend. Nic Strong counteracted with some questions herself, would it fall under agritourism, or how is having a wedding every weekend accessory to a horse farm? She said those would be the questions one would ask. Paul Monzione asked if one is having commercial weddings on a property, what regulates that commercial activity? What commercial use is that? Is it permitted in the specified zone? Do they need a site plan, a permit, or a license? Paul Monzione explained that in the past there was an application where there was a parcel of farm land that the applicants just wanted to do weddings and the Committee had no definitions or regulations that dealt with a commercial facility where the purpose was just functions. Then there are motels and lodging facilities that were offering the guests the use of the land, but it wasn’t predominantly their business, it was an accessory to. Nic Strong stated the Committee had put the Commercial Function Facility ordinance in place because the use was to only be for a function facility, then it’s exclusive, not predominant. Paul Monzione asked that if there was a horse farm that wanted to have weddings every weekend and the neighbors don’t like it, what would they do? Nic Strong stated that John Dever would go to the Zoning Ordinance and read the definitions, he’d figure out how much mixed use the town actually allows in various districts and whether you can combine those two things and if those two thing couldn’t be combined, then they would need a variance. The Committee agreed to the recommendations.

Explanation #8: There were no recommended changes.

Tom Hoopes moved to forward Amendment #8 and Explanation #8 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendment #9: There were no recommended changes.

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Explanation #9: There were no recommended changes.

Tom Hoopes moved to forward Amendment #9 and Explanation #9 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Lou LaCourse seconded the motion and it PASSED unanimously.

Amendment #10: There were no recommended changes.

Explanation #10: There were no recommended changes.

Tom Hoopes moved to forward Amendment #10 and Explanation #10 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendment #11: There were no recommended changes.

Explanation #11: There were no recommended changes.

Tom Hoopes moved to forward Amendment #11 and Explanation #11 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Lou LaCourse seconded the motion and it PASSED unanimously.

Amendment #12: There were no recommended changes.

Explanation #12: Paul Monziona suggested this explanation be shortened. Lou LaCourse suggested the following revision: "This "housekeeping" amendment updates the Table of Uses to include or delete or renumber new or redundant uses.". The Committee agreed to the recommendations.

Tom Hoopes moved to forward Amendment #12 and Explanation #12 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Scott Williams seconded the motion and it PASSED unanimously.

Amendment #13: There were no recommended changes.

Explanation #13: There were no recommended changes.

Tom Hoopes moved to forward Amendment #13 and Explanation #13 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting. Lou LaCourse seconded the motion and it PASSED unanimously.

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

APPROVED

Amendment #14: There were no recommended changes.

Explanation #14: There were no recommended changes.

Tom Hoopes moved to forward Amendment #14 and Explanation #14 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting.

Scott Williams seconded the motion and it PASSED unanimously.

Amendment #15: There were no recommended changes.

Explanation #15: There were no recommended changes.

Tom Hoopes moved to forward Amendment #15 and Explanation #15 as amended to be presented at the Planning Board/Zoning Amendment Committee joint meeting.

Lou LaCourse seconded the motion and it PASSED unanimously.

Other Business:

1. Old Business:
-None
2. New Business:
Nic Strong handed out a draft of the proposed ballot questions format to Committee members, but wanted to check with Jim Sessler - Town Counsel, the Town Clerk, and the Town Administrator about the length of the ballot questions.
3. Approval of Minutes: October 25, 2016
Minutes were tabled until the next meeting.

Dates for Future Meetings:

Planning Board meetings = November 15th for joint Planning Board/ZAC meeting
December 20th for public hearing
January 17th if a second public hearing is needed

PUBLIC INPUT

Open to the public. None at this time. Closed Public session.

ADJOURNMENT

At 8:30 p.m. Scott Williams moved to adjourn.

Tom Hoopes seconded the motion and it PASSED unanimously.

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

**TOWN OF ALTON
ZONING AMENDMENT COMMITTEE
MINUTES OF 2016**

November 1, 2016

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Jessica A. Call
Planning Secretary

11/9/16

Minutes approved as written: September 13, 2017