

OWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MEETING
Thursday, July 11, 2024, at 6:00 P.M.
Alton Town Hall

MEMBERS PRESENT

Mark Manning, Chair
Tom Lee, Vice Chair
Frank Rich, Member
Tim Morgan, Member
Paul LaRochelle, Selectman's Representative

OTHERS PRESENT

Jessica Call, Town Planner
Norma Ditri, Code Enforcement Officer
John Bisson, Esq., representative for applicant
Matthew Gongas, owner
Janet Boccelli, owner
Steven Boccelli, owner
Bill O'Brien, resident
Tim Bassett, resident
Vince, resident
Pat Heffernan, representative for applicant
Nick Schiffer, NS Builders, Agent
Matt Bendle, NS Builders, Agent
Tref LeFresse, architect
Al Guardy, abutter
Anthony Jones, Jones and Beach Engineers

CALL TO ORDER

Chair Manning called the meeting to order at 6:00 PM.

INTRODUCTION OF BOARD MEMBERS

Roll Call was taken for the Board members and individuals present at Town Hall.

APPOINTMENT OF ALTERNATES

Chair Manning stated no alternate will be needed for this meeting.

STATEMENT OF THE APPEAL PROCESS

The purpose of this hearing is to allow anyone concerned with an Appeal to the Zoning 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 that 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,

46 but all facts and opinions based on reasonable assumptions will be considered. In the case of an
47 appeal for a Variance, the Board must determine facts bearing upon the five criteria as set forth
48 in the State's Statutes. For a Special Exception, the Board must ascertain whether each of the
49 standards set forth in the Zoning Ordinance have been or will be met.

50 **APPROVAL OF AGENDA**

51
52 No changes were made to the Agenda.

53
54 **MOTION: To approve the agenda as presented. Motion by Mr. LaRochelle. Second by Mr.**
55 **Lee. Motion passed unanimously.**

56
57 **1. APPLICATIONS CONTINUED FROM JUNE 6, 2024**

Case #Z24-26 Ethan Wood, Esq., Agent for John A Miles, Owner	Map 25 Lot 14 33 Baxter Place	Special Exception Rural Zone (RU)
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58 **A Special Exception** is requested from **Article 300 Section 320.J** to permit the removal and
59 replacement of a manufactured housing unit.

60
61 Chair Manning read the public hearing notice into the record. It was noted no representative for
62 this case was present.

63
64 **MOTION: To move the case down on the agenda to be heard following Case #Z24-30.**
65 **Motion by Mr. Rich. Second by Mr. LaRochelle. Motion passed unanimously.**

66
67 **2. NEW APPLICATIONS**

Case #Z24-27 Shawn Dunphy, Esq. Agent for Boccelli Landing LLC, Owner	Map 63 Lot 38 16 Legacy Landing	Administrative Appeal Lakeshore Residential Zone (LR)
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68 **An Administrative Appeal** is requested in reference to a denial the issuance of building permit.

69
70 Chair Manning read the public hearing notice into the record. The Board reviewed and discussed
71 the request for an Administrative Appeal submitted by Shawn Dunphy, Esq., on behalf of the
72 owner.

73
74 **MOTION: To accept Case #Z24-27 appeal request as complete for discussion. Motion by**
75 **Mr. LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

76
77 John Bisson, Esq., representative for the applicants, stated the application for a building permit
78 was denied by email dated April 17, 2024; he stated the applicants initially requested special
79 exceptions and two variances, all but one of which were granted. He stated the variance request
80 which was denied was height of the structure. Mr. Bisson stated the Boccelli's adjusted the
81 structure to meet the height limitation of the ordinance rather than appeal the decision; he noted
82 the Zoning Ordinance does not have a number of floor restriction but only height. Mr. Bisson
83 stated the plans originally presented as part of the application showed a structure with four levels
84 and shows a cupola in November 2023; at the recommendation of the Code Enforcement Officer,

85 Mr. Dever, the applicants sought the variances, but no issue was indicated by Mr. Dever for the
86 cupola. There was no indication when the plans were reviewed in November 2023 that the
87 cupola would violate the ordinance. Mr. Bisson stated the building has been demolished as
88 multiple variances were received but now, they can't get a permit as the plans have been deemed
89 to be four floors which purportedly violates the ordinance. He reiterated that the plans meet the
90 height restrictions and are therefore in compliance with the ordinance. Mr. Bisson stated the
91 applicants acted in good faith, did as they were advised and relied on the approvals by the ZBA;
92 if a variance was required for the cupola, Mr. Dever should have advised such. Mr. Bisson stated
93 that it appears that with a change of personnel, there is a change in what is being advised from
94 the Town.

95
96 Ms. Ditri, Code Enforcement Officer, clarified that there was never a building permit approved
97 by the Building Department; nor by Mr. Dever or Mr. Padro, who were previously in her
98 position. Mr. Bisson stated the issue is the height of the structure and four floors is the basis for
99 the denial. Ms. Ditri stated that is not exactly what was indicated in the denial letter; the IRC
100 goes up to three stories per the code. Mr. Bisson asked if she would agree with the statement that
101 if she was reviewing the application now, she would advise a variance is needed. Ms. Ditri stated
102 she does not agree; a variance isn't needed because a four story structure can't be built per the
103 IRC. She stated a building permit application is reviewed to ensure compliance with building
104 code; she stated residential code goes up to three stories and in her determination that the
105 proposed structure includes a fourth story because of its size of 14' by 18' with a deck off of it
106 and a full flight of stairs; it is not a cupola. Mr. Bisson argued that the previous employee in this
107 position did something different than the current employee. Chair Manning stated he doesn't
108 believe that is accurate; he stated he appreciates the fact that the applicant returned with a plan
109 that reduced the height of the building as that was the crux of the discussion at the previous
110 hearing; there was a neighbor that had an issue with the view and that concern has been
111 addressed. Chair Manning noted there was also discussion at that time whether a cupola would
112 be added as well as the 35 foot height restriction; in order to have a house built with a cupola, it
113 would still need to meet the height restriction. He stated per the documents submitted, the plans
114 indicate that the building does not have a fourth floor but that is actually a cupola. Mr. Bisson
115 stated the zoning ordinance does not prohibit the structure as long as it fits under the height.
116 Chair Manning asked for clarification from Ms. Ditri. Ms. Ditri stated per the IRC residential
117 building code, there is a limit of three stories and she sees four stories on the plans; the definition
118 of a floor is included within her review. Chair Manning stated that the plans previously
119 submitted did not fit within the code; the new plans may. Mr. Bisson argued that the Town had
120 an obligation at the time to say this plan would not work even if it was under the height
121 restriction and questioned why it wasn't pointed out. Chair Manning noted that one of the Board
122 members did point out that the fourth floor looked bigger than a cupola, along with discussion
123 about it by the Board. He stated they have been researching the definition of a cupola but there is
124 none. Mr. LaRochelle agreed that the issue is whether the plans are for four stories or whether its
125 three stories with a cupola; he stated at the last meeting there was discussion about reducing the
126 overall height, which was done and the Board determined that if the height was reduced, it would
127 be a cupola. Mr. Rich agreed with Mr. LaRochelle; he stated it is the responsibility of the Town
128 to give the necessary information for the applicant to provide enough information for the Board
129 to go forward; he stated this seems to be a simple proposition. He stated they requested the
130 applicant make it less than 35 feet; this has been done and they don't have a definition of a

131 cupola in the ordinance and as far as he is concerned is part of the third floor. Mr. Rich stated he
132 understands what Ms. Ditri is saying but he doesn't agree and believes it's a third floor that is
133 under 35 feet in height. He stated the applicants have had enough inconvenience and the Board
134 should accept the appeal and approve what the Boccelli's want to do. Mr. LaRochelle agreed; he
135 stated the plans have been reviewed twice by the Board, the height has been lowered and at this
136 point the existing house has been demolished, creating a hardship as new construction needs to
137 be done. He stated there is a discrepancy in the interpretation of "cupola" and suggested the
138 Zoning Amendment committee be sure this definition is added. Mr. Lee agreed this case has
139 been reviewed numerous times in regard to this project; at no time in Mr. Dever's experience, if
140 this was an egregious example of not following code, it would have been indicated. He stated the
141 height concerns were previously discussed and the Boccelli's revised the plans to meet the
142 restrictions; he stated he believes there is too much of a hardship to deny the plans at this point.

143
144 Mr. Morgan stated he is concerned about approving the appeal and how the occupancy permit
145 would be obtained. Mr. Rich reiterated that he believes the plans are for a three story building
146 with a cupola; the cupola is part of the roofline. Mr. Bisson stated if the building is built
147 consistent with the permit, than the certificate of occupancy should be issued.

148
149 Mr. Rich stated he has seen no evidence in the record indicating Mr. Dever believed the plans to
150 be for a four story structure.

151
152 Chair Manning opened the hearing to input from the public. None was indicated.

153
154 Chair Manning closed the hearing to input from the public.

155
156 **MOTION: To approve the Administrative Appeal and allow the applicant to build the**
157 **building based on the fact that the plans comply with previous concerns of the Board**
158 **regarding the 35 height restriction per the zoning ordinance. Motion by Mr. Rich. Second**
159 **by Mr. LaRochelle. Motion passed unanimously.**

160

Case #Z24-28 Shawn Dunphy, Esq. Agent for Steven Boccelli, Owner	Map 36 Lot 12 115 Mount Major Highway	Administrative Appeal Residential Zone (R)
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161 **An Administrative Appeal** is requested in reference to a letter regarding unpermitted Short
162 Term Rental.

163
164 Chair Manning read the public hearing notice into the record. The Board reviewed and discussed
165 the request for an Administrative Appeal submitted by Shawn Dunphy, Esq., on behalf of the
166 owner.

167
168 **MOTION: To accept Case #Z24-28 appeal request as complete for discussion. Motion by**
169 **Mr. LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

170

171 John Bisson, Esq., representative for the applicant, stated Mr. Boccelli has owned the property
172 since 2020; it is a two family home and has been rented since that time for 2 days to 2 week
173 periods through various retail management platforms. Mr. Bisson stated there is also a property

174 manager involved. He stated receipts were submitted as proof of rental history; he stated their
175 position is that the use was in effect prior to the change in the ordinance in 2023 so is preexisting
176 and the zoning ordinance change cannot be retroactively applied, per NH RSA 674:16. Mr.
177 Bisson stated there were some technical issues with the cease and desist letter but that has been
178 remedied.

179
180 Mr. LaRochelle stated he was on the board that developed the short term ordinance; it was
181 approved by voters for all zones except the residential zone; he stated this property is within the
182 residential zone. He stated an applicant for all zones have to apply for an application do to a
183 short term rental, regardless if there is a preexisting rental. Mr. LaRochelle stated he doesn't
184 believe this is a grandfathered ordinance and explained the requirements for all permit
185 applications. Mr. Bisson stated zoning is a power delegated by the State; the State allows a
186 constitutional right to continue a non-conforming use. He stated he doesn't disagree with the
187 inspection and safety aspects but the Town can't tell the property owner that based on legislation
188 passed three years after the use was in place, that he can't do it anymore. Mr. Bisson stated the
189 issue is the use; he stated the applicant has not been asked to fill out an application but was only
190 issued a cease and desist. He stated there has been no change to the structure or use; he stated it
191 is a vested right to continue the use.

192
193 Ms. Ditri stated the notice of violation that was sent to Mr. Boccelli outlines the permitted uses
194 which indicates short term rentals are not allowed in a residential zone; she stated an unsafe
195 environment is being created, noting she has seven police reports indicating numerous calls to
196 the department and pictures of cars blocking driveway, reports of people being threatened by
197 short term rental tenants. Mr. Bisson stated one of the neighbors was the subject of a police
198 report for threatening one of the tenants so its clearly a hostile situation; he stated if they are
199 going to rely on the police report, there is a due process problem. He stated the purpose of this
200 meeting is to hear an appeal; the issue is not that the rental is obnoxious but that it is the people
201 using the property. Mr. LaRochelle stated there is also the issue of a septic system and whether
202 there are more people than the system can handle; he stated many of the short term rentals have
203 more than three or four people per bedroom, overloading the septic system and coming with
204 numerous vehicles. He stated a long term rental is a different situation with more stability. Mr.
205 Bisson asked if there is any evidence of there being more people than the septic system would
206 permit; he stated the number of occupants can be enforceable if there was a restriction prior to
207 2023 but that is not the intention of this hearing.

208
209 Mr. Lee stated its his opinion that this area depends on short term rentals and is a seasonal
210 destination; he stated if there are existing properties being used this way, there needs to be a
211 bridge for those existing uses and can't be eliminated. He stated those properties need to abide
212 by the short term rental rules and regulations. Mr. Lee stated it doesn't appear that the cease and
213 desist letter followed the necessary process per RSA 676:17; no facts were denoted or identified
214 the property properly. Mr. Lee stated this hearing is for an appeal for a short term rental denial.

215
216 Mr. Rich noted Mr. Bisson's appeal indicates the cease and desist is missing required facts and
217 information; he stated per the appeal application, the letter does not provide Mr. Boccelli with
218 the facts regarding what created the unsafe and hazardous situation. Mr. Rich stated that it is his
219 opinion that the cease and desist would not be warranted as it did not comply with the

220 regulations of the RSA; he stated that doesn't mean the Code Enforcement Officer did not take
221 the appropriate action, but the letter did not comply.

222

223 Chair Manning questioned if a notice of violation is the same as a cease and desist. Ms. Ditri
224 stated no response was received from two notices of violation so they moved onto a cease and
225 desist. Mr. Bisson stated the cease and desist did not provide details of the violations nor provide
226 information for remedying the issues or a timeframe for completion. Ms. Ditri stated a letter was
227 sent in May, June and July. Mr. Bisson stated the cease and desist has to be consistent with State
228 RSA.

229

230 Mr. Lee stated the short term rental permitting process is new and its unclear if a bridge has been
231 made for existing short term rentals; he stated he doesn't feel like a dispute is a zoning board
232 issue. He suggested there be a short term rental board to handle these issues.

233

234 Mr. Rich asked Mr. Bisson to clarify that he is asserting the short term rental ordinance can only
235 be applied to new homes. Mr. Bisson stated it is not that limited; if the change is unused and
236 existing, a nonconforming use can continue until a change is made, which is the same as with a
237 nonconforming structure. He stated if a house was not previously used as a short term rental, the
238 permit application process would be necessary as it was not preexisting and nonconforming. Mr.
239 Bisson stated if it is the Code Enforcement Officer's opinion that the tenants were creating an
240 obnoxious and unsafe situation, the property owner needed to be afforded the opportunity to
241 correct the issues but that has not happened. Chair Manning noted that the violation notices did
242 outline the issues. Mr. Bisson stated no remedy or corrective notice was included as required by
243 statute.

244

245 Mr. Morgan stated there are two issues here: whether the cease and desist order was appropriate
246 and whether the property is grandfathered for short term rental.

247

248 Mr. Bisson suggested the cease and desist order was defective and cannot be applied; the
249 property is a preexisting nonconforming use and cannot be prohibited. Mr. Morgan stated he
250 doesn't agree with Mr. Bisson's interpretation of the statute that the applicant can continue to do
251 an unregulated activity just because it was previously unregulated.

252

253 Mr. Lee stated the onus is on the Town for handling preexisting short term rentals in a residential
254 zone; he proposed this case be amended appropriately, allowing the rental to continue and abide
255 by the short term rental criteria. He stated he believes the Board of Selectmen need to send
256 notices to all property owners within the residential zones. He stated he agrees this is a
257 preexisting nonconforming situation and they can't ask the applicant to jump through hoops just
258 because an ordinance was passed to restrict short term rentals. Mr. LaRochelle agreed an appeal
259 for this should go to the Board of Selectmen.

260

261 Mr. LaRochelle suggested the applicant go through the short term rental application and possibly
262 go over the regulation with the Board of Selectmen as far as the preexisting condition is
263 concerned.

264

265 Mr. Rich suggested that the applicant be more careful regarding vetting tenants; he stated no one

266 wants disturbance in their neighborhood and its not fair to the neighbors; he stated based on what
267 was presented here, the Board has no choice but to consider the cease and desist as defective.
268 However, he also believes the enforcement officer could send out another letter informing the
269 applicant of the reasons why.

270
271 Mr. Lee suggested a continuance to allow the parties to work this out; he suggested the applicant
272 meet and discuss the issues with the Code Enforcement Officer; in the interim, they can get the
273 Board of Selectmen involved to determine how preexisting short term rentals will be handled.
274 Mr. LaRochelle agreed and suggested legal counsel is needed as well. The Board agreed.

275
276 Chair Manning opened the hearing to input from the public.

277
278 Jessica Call, Town Planner, stated in regard to grandfathering, when Mr. Dever was still here,
279 they had this conversation with Town Counsel about how to handle preexisting short term
280 rentals. Ms. Call stated currently Section 320.A of the ordinance states any lawful use of land,
281 buildings, or structures, which exist prior to the effective date of the ordinance or amendment,
282 which made the use nonconforming, shall be allowed to continue subject to the provisions of this
283 article. She stated short term rentals were not a lawful use therefore, according to Town Counsel,
284 it means it does not fall under nonconforming use. She stated the Town's ordinance are listed as
285 permissive ordinances and referenced Section 401, Table of Uses; short term rentals did not
286 appear in the table of uses until 2023. Ms. Call asserted that per this information, short term
287 rentals are not grandfathered as a lawful use; she stated that sometimes laws and ordinances are
288 passed which don't benefit everyone. Mr. Lee stated Town Counsel did not advice how to handle
289 preexisting short term rentals other than to say its unlawful; he stated people who have been
290 running a business and have been for years, then an ordinance is passed which no longer allows
291 it; he questioned if Town Counsel considered the ramifications to the many people in this
292 community who are operating short term rentals. Mr. Rich asked if all short term rentals for the
293 last 100 years were unlawful. Ms. Call suggested that be disused further with Town Counsel; she
294 stated there were extensive discussions at committee meetings. The Board agreed further
295 discussion and clarification is needed from Town Counsel.

296
297 Bill O'Brien, resident, stated this was discussed extensively for the last three years, brought to a
298 vote and the argument from short term rental property owners is that the business supplements
299 their income to pay taxes; he stated it was agreed that short term rentals could be retained if there
300 is compliance with the criteria.

301
302 Mr. LaRochelle stated the ordinance was intended to regulate what is being done, ensure septic
303 systems aren't overloaded and safety is ensured; it's a matter of compliance to continue the
304 business. He stated it doesn't stop anyone from doing business except in a residential zone.

305
306 Tim Bassett, resident, suggested the Board advise the applicant to complete an application.

307
308 Vince ????, resident, stated there was a lot of discussion and he distinctly remembers Mr.
309 LaRochelle indicating there would be no grandfathering for this issue; he stated zoning has never
310 addressed short term rentals in the past but people would rent their properties to help pay
311 property taxes; he stated it was never permitted in any zones. The issue was extensively reviewed

312 and discussed amongst many boards and committees to permit the use. He stated it greatly
313 affects him and his property with tenants trespassing on his property and dock; he believes it's a
314 big problem for residential zones, depriving him of his quality of life.

315
316 Chair Manning closed the hearing to public input.

317
318 Mr. Bisson stated he agrees that the problems created by tenants are a problem and shouldn't
319 happen; they are not saying that should be allowed in Town but the issue is that at the time,
320 permission to have the short term rental was not required; the ordinance did not require
321 permission. Mr. Bisson stated it's a residential property being used for residential purposes that
322 happened to be rental; as indicated by many members of the Board, rentals have happened for
323 decades, and this was possible because permission was not required. He stated with the creation
324 of the ordinance, permission is now required; it is a constitutional problem. Mr. Bisson stated an
325 ordinance cannot be passed today because it might benefit another person, giving them the "short
326 end of the stick", and referred to the concept of eminent domain; he stated they are taking away
327 the owners right that was not prohibited, and no permission was required, simply because they
328 don't like it anymore. He stated the constitution doesn't allow it; he suggested the appeal be
329 granted based on the defective cease and desist. Mr. Bisson stated he can't advise his client to
330 complete the application at this time as he hasn't seen it; but he is willing to have a conversation
331 on this issue and if its reasonable, they don't want to be difficult.

332
333 Mr. Rich stated if they do this, the application is still in a residential zone so will be denied. Mr.
334 Bisson stated they will then appeal it; he agrees with completing the application as part of the
335 process. He is also willing to have a conversation with Town Counsel. Mr. LaRochelle agreed
336 this is the direction they need to go.

337
338 Chair Manning asked if Mr. Bisson and his client received the police reports. Mr. Bisson stated
339 he did not and has not seen any photos.

340
341 **MOTION: To hold in abeyance the Cease and Desist letter, to ensure the discovery of**
342 **evidence is provided to the applicant, and to continue the case for further consideration to**
343 **the next regularly scheduled meeting to consider the issue of the grandfathered clause and**
344 **other issues that might arise from the discussions. Motion by Mr. Morgan. Second by Mr.**
345 **LaRochelle. Motion passed unanimously.**

346
347 *Continued to August 20, 2024.*
348

Case #Z24-29 Matthew Gongas, Owner	Map 34 Lot 19 3 Spring Street	Variance Residential Zone (R)
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349 A Variance is requested from Article 300 Section 327.A.2 to permit the conversion and
350 expansion of a garage to primary residence within the 25-foot road setback.

351
352 Chair Manning read the public notice into the record. The Board reviewed the application for
353 completion.

354

355 **MOTION: To accept the application for Case #Z24-29 as complete. Motion by Mr.**
356 **LaRochelle. Second by Mr. Lee. Motion passed unanimously.**

357
358 Matthew Gongas, owner, stated he is looking to propose a one bedroom cottage on his property;
359 he stated there is currently a garage only.

360
361 Chair Manning noted the structure is still within 25 feet from the road and questioned why it is
362 not being moved back. Mr. Gongas stated he is having the building lifted to put a foundation in;
363 the cost to lift and move would be even more; he stated the building is old and he doesn't want to
364 distort it. There is another building on the property that will be removed as its inhabitable. The
365 existing garage is being raised and placed in the same location on a foundation. Mr. Gongas
366 stated there would be a 5 foot front porch that would go in to the setback, making it 17 feet from
367 the road; it is currently 22 feet. Mr. Gongas stated he can't move it back as its cost prohibitive
368 and he is afraid of damaging it the structure.

369
370 Chair Manning stated that generally, increasing the nonconformity of a property is not permitted.
371 Mr. Gongas stated if the porch is the issue, that can be changed. It could be shortened down to 4
372 feet with steps on the side. The current driveway goes through the property and isn't really
373 defined; it is off from Spring Street. It was confirmed no right of way is required for the
374 driveway.

375
376 Mr. LaRochelle stated his opinion is that a structure like this can be moved without damage; he
377 suggested it be lifted and setback with a new foundation; he doesn't see that as a major issue as
378 moving it out of the way should be easier once it is lifted. Mr. Gongas stated he was advised by
379 the builder that its easier to move it straight up and set it back down. Mr. LaRochelle stated no
380 variance would be needed if it is moved back.

381
382 Mr. Gongas stated after the structure is placed back on a foundation, the roof will be removed
383 and another story added. It will be higher than the existing building but it will be a total of 26
384 feet in height when finished.

385
386 Mr. Morgan suggested Mr. Gongas discuss moving the structure back with his contractor, and no
387 variance or special exception would be needed. He stated there are specific criteria that need to
388 be considered per state statute; if it is voted against by the Board, it will create more problems as
389 it currently stands. Mr. Gongas agreed to discuss this further with his contractor. Mr. Rich noted
390 that if the building is moved back, the property will not be non-conforming and will be in full
391 compliance.

392
393 **MOTION: To continue the application for Case #24-29 and 30 to the next regularly**
394 **scheduled meeting. Motion by Mr. Morgan. Second by Mr. LaRochelle. Motion passed**
395 **unanimously.**

396

Case #Z24-30 Matthew Gongas, Owner	Map 34 Lot 19 3 Spring Street	Special Exception Residential Zone (R)
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397 A Special Exception is requested from Article 300 Section 320.H.3 to permit the conversion of

398 a garage to a primary residence with expansion of roofline and basement.

399

400 *Continued to August 20, 2024.*

Case #Z24-26 Ethan Wood, Esq., Agent for John A Miles, Owner	Map 25 Lot 14 33 Baxter Place	Special Exception Rural Zone (RU)
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401 **A Special Exception** is requested from **Article 300 Section 320.J** to permit the removal and
402 replacement of a manufactured housing unit.

403

404 Chair Manning read the public hearing notice into the record. It was noted that this case has been
405 continued three times and must be heard at this meeting. Pat Heffernan, representative for the
406 applicant, stated he initially spoke with Mr. Padro and was advised a special exception is needed.

407

408 The board reviewed the application for completeness.

409

410 **MOTION: To accept the application for Case #Z24-26 as complete. Motion by Mr.**
411 **LaRochelle. Second by Mr. Rich. Motion passed unanimously.**

412

413 Pat Heffernan, representing the applicant, stated the mobile home was built in 1967; it is at the
414 end of its useful life; the applicant's brother has offered to buy him a new trailer and cut trees out
415 of the area. He stated they want to ensure they can remove the old home before replacing it; he
416 stated the new mobile home is 13.4 by 60 feet while the existing home is 12 by 60 feet. A report
417 of the septic system inspection was submitted with the application. Mr. Heffernan stated the
418 existing mobile home is in the setback by about 6"; they want to bring it into more conformity and
419 pull it back a couple of feet; there is adequate space to do so. A new concrete slab will be put in;
420 the existing well and septic will be used. The electric service will be upgraded to accommodate
421 the new mobile home. It was clarified that the new mobile home is two bedrooms; it will have a
422 porch on the back side.

423

424 Ms. Ditri noted that if the new mobile home is less than 14 feet wide, a variance will be needed
425 for Section 350.A which indicates manufactured home under 14.4 feet, must be within a mobile
426 home park. Mr. Heffernan confirmed the proposed mobile home to be purchased is 13.4 feet; he
427 stated with the porch, its over 14 feet wide. Mr. LaRochelle stated the roofline is beyond 13.4
428 feet.

429

430 Mr. Lee noted that a one bedroom can be replaced with two bedrooms as long as the septic is
431 appropriate; it was confirmed the proposed structure will be less nonconforming as its being
432 moved further from a setback; the structure will be within the building envelope; it is currently a
433 year-round residence.

434

435 Mr. Heffernan confirmed the abutters granted permission to use the existing driveway for access.
436 Mr. LaRochelle stated letter was submitted from Shannon and Dana Lauren, Map 25, Lot 13,
437 requesting that the temporary shelter for Mr. Miles be moved off their property; it also indicated
438 an easement was granted temporarily; all property lines have been surveyed and are up to date.
439 The abutters suggested the replacement structure and gravel driveway should be able to moved
440 so there is no encroachment on their property and setbacks met, with the easement being

441 nullified. Copies of the property deeds and maps were submitted with the abutter letter. Mr.
442 Heffernan stated the problem of encroachment should be able to be resolved. Ms. Ditri noted
443 there is no setback requirement for a driveway from an abutter property line but a driveway
444 permit will be needed from the Alton Department of Public Works. Mr. Heffernan stated they
445 want to bring the property into more compliance; there is adequate space for the driveway. Mr.
446 Rich noted that if an easement is on a deed, that will need to be properly released if the abutters
447 want that rescinded. The Board agreed that moving the driveway and reducing the side setback
448 encroachment would be conditions of approval.

449
450 Chair Manning opened the hearing to input from the public in favor of the application. None was
451 indicated.

452
453 Chair Manning opened the hearing to input from the public in opposition of the application.
454 None was indicated.

455

456 Chair Manning closed public input.

457 The Board worked through the Special Exception worksheet.

458

459 ***Discussion – Case #Z24-24***

460 *The Board must find that all the following conditions are met in order to grant the Special*
461 *Exception:*

462 Chair Manning stated that a plat/plan **has** been submitted in accordance with the appropriate
463 criteria in the Zoning Ordinance, Article 520.B. The Board agreed.

464 Mr. Lee stated the specific site **is** an appropriate location for the use. He stated the mobile home
465 will be replaced and moved within the setbacks of the building envelope. The Board agreed.

466 Mr. Rich stated that actual evidence **is not** found that the property values in the district will be
467 reduced due to incompatible land uses. He stated a new mobile home will replace the existing
468 one so it will only improve the values. No factual evidence was submitted to indicate values
469 would be diminished. The Board agreed.

470 Mr. Morgan stated there **is no** valid objection from abutters based on demonstrable fact. He
471 stated there are concerns indicated by abutters. The Board agreed.

472 Mr. LaRochelle stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular
473 traffic, including the location and design of accessways and off-street parking as there is no off
474 street parking. He stated the only request by an abutter was to remove the driveway from their
475 property to be fully on the applicant's property and to remove the carport. The Board agreed.

476 Chair Manning stated adequate and appropriate facilities and utilities **will** be provided to ensure
477 the proper operation of the proposed use or structure. He stated there is currently a two bedroom
478 septic which will remain. The Board agreed.

479 Mr. Lee stated there **is** adequate area for safe and sanitary sewage disposal and water supply and
480 this is made clear in the proposal presented. The Board agreed.

481 Mr. Rich stated the proposed use or structure **is** consistent with the spirit of this ordinance and

482 the intent of the Master Plan. He stated the applicant is removing an old trailer and replacing it
483 with a new building. The Board agreed.

484 It was clarified that if the width of the mobile home does not meet the minimum of 14.4 feet, a
485 variance will be needed.

486

487 **MOTION: To grant the request for a Special Exception for Case #Z24-26 with the**
488 **condition that the new mobile home be within the side setback; the shed is removed; the**
489 **minimum width of the new mobile home is measured to be 14 feet; the deck is permitted;**
490 **and a driveway permit is obtained with the Town of Alton Highway Department. Motion**
491 **by Mr. Lee. Second by Mr. LaRochelle. Motion passed unanimously.**

492

Case #Z24-31 NS Builders, Nick Schiffer & Matt Bendle, Agents for The Mike & See Vang Segala Revocable Trust, Mike & See Vang Segala, Trustees	Map 39 Lot 11 21 Silver Cascade Way	Special Exception Lakeshore Residential Zone (LR)
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493 **A Special Exception** is requested from **Article 300 Section 320.J** to permit the in-kind
494 replacement of a voluntarily removed, pre-existing, non-conforming structure.

495

496 Chair Manning read the public hearing notice into the record. The Board reviewed the
497 application for completeness. Mr. Morgan asked the applicant if they had reviewed the
498 comments from the Planning Office. The applicant indicated he had not. Mr. Morgan explained
499 that some of the recommendations regarding this complicated case, include having a peer review;
500 a copy of the recommendations was provided to the applicant. Mr. Morgan stated they would
501 hire a third party to provide advice, there may be a need for further special exceptions and
502 possible a variance; a peer review would advise both the applicant and the Town with the issues.

503

504 Nick Schiffer, NS Builders, Agent for the applicants, stated he believes all the necessary
505 information is included in the application and asserted there are no significant changes, noting
506 there is no height increase, the volume is being reduced, and what is in question is the current
507 use. He stated Mr. Dever's communicated that the boat house could in fact be renovated as is, as
508 long as the kitchen was removed when the main house is built. Mr. Schiffer stated there is a
509 kitchen in the boathouse, which has been there for over 30 years, but they are asking permission
510 to allow the kitchen to stay until the main house is completed. Mr. Morgan noted the tax card has
511 been inconsistent with regard to the boathouse and reiterated that the Board may require a peer
512 review. Ms. Ditri questioned how they would know if a house would in fact be built. Mr.
513 Schiffer stated it would be built within two years.

514

515 **MOTION: To accept the application as complete. Motion by Mr. Morgan. Second by Mr.**
516 **LaRochelle. Motion passed unanimously.**

517

518 Mr. Schiffer gave an overview of the proposed plans; there is an existing garage on the lot; the
519 main house burned down. The existing boathouse has a current septic system; the renovation will
520 include updating the septic system. It was confirmed there is no increase in decks, square footage

521 or height of the building. Mr. Schiffer stated the current structure is two bedrooms and will
522 remain two bedrooms; there will be three bathrooms. He explained the overall volume of the
523 structure would be reduced with changes in the roof lines.

524
525 Tref LeFresse, architect, explained they will be obtaining a Shoreline Permit through NH DES as
526 well as a wetlands permit; informal reviews have been done and the application will be
527 submitted soon. The proposed septic system is being designed for the boathouse as well as the
528 main house in the future. The boathouse is being replaced in-kind; the new septic would be
529 installed and approved prior to occupancy.

530
531 Ms. Ditri noted that in-kind replacement is defined as keeping the same square footage, size and
532 shape but must meet current setbacks.

533
534 Mr. Rich explained the need for a peer review for complex cases such as this. Mr. Schiffer asked
535 what is complex about the case. Ms. Ditri stated there is not a clear record of when things were
536 changed with the boat house, changing it to a dwelling unit. Mr. Schiffer stated that with the lack
537 of records, and the fact there was another house on the property, doesn't make it clear that there
538 was not a kitchen when the boathouse was built. He suggested if the kitchen was removed from
539 the plans, could the renovation proceed as presented. Ms. Ditri stated there is no definition for a
540 boathouse for them to follow. Mr. Schiffer stated the tax card from 1929, when it was built, is for
541 two bedroom, two slips and a bathroom. He stated these were existing when the applicants
542 purchased the property; abutters attest to the use for the last 50 plus years; it can't be proved the
543 kitchen was there in 1929 but Town records acknowledge it is at least two bedrooms with 1.5
544 baths. He explained the only reason for keeping a kitchen in the boathouse was for use during the
545 construction of the main house but they are willing to remove it.

546
547 Mr. Lee referenced letters from the previous Code Enforcement Officer, John Dever, which
548 advises the circumstances under which renovation may be done and the appropriate permitting.

549
550 Mr. Schiffer stated the work to the boathouse is expected to start late summer 2024; the
551 construction of the main house would start in two years. He explained it is easier to begin with
552 the boathouse than the main house due to the steep slopes and topography of the lot. It was noted
553 the new septic system would be installed prior to occupancy in either structure. Mr. Schiffer
554 stated there will not be two dwellings; it will eventually be a main house with an accessory
555 dwelling.

556
557 The Board discussed the issue of a kitchen being located in a boathouse. It was noted that the
558 zoning ordinances do not allow a dwelling over water.

559
560 Mr. LaRochelle stated he believes the suggestion for a peer review is valid; he also agrees the
561 previous building inspector thoroughly reviewed and advised this project so believes they can
562 move forward with the deliberations by the Board.

563
564 Chair Manning opened the hearing to input from the public in favor of the application. None was
565 indicated.

566

567 Chair Manning opened the hearing to input from the public in opposition of the application.
568

569 Al Guardy, abutter, stated his property gives right of way to this lot; he stated he knew the
570 previous owners who had the boathouse and the house which burned in 1962. He stated since
571 that time, the owners always used the boathouse as the dwelling, and it had a kitchen as far as he
572 can remember. Mr. Guardy a previous property owner wanted to divide the lot in to six house
573 lots so he is happy to see this owner want to retain the original design.
574

575 Chair Manning closed the hearing to public input.
576

577 Mr. Lee asked the height of the proposed building after renovation. Mr. Schiffer stated it would
578 be the same as the existing boathouse at 19 feet. Chair Manning noted that the ordinance permits
579 the maximum height of a boat house to 15 feet above the reference line of the water; a special
580 exception is needed for height exceeding that. Mr. Schiffer suggested it is a preexisting
581 nonconforming structure as long as they abide by the same footprint, height and square footage.
582 He stated if they lowered the height, it would cause problems with installing doors, etc.
583

584 The Board discussed the applicability of the Special Exception requested to Article 300 Section
585 320. Mr. Schiffer explained they are looking to do an in-kind replacement; they are not removing
586 the entire structure. Ms. Ditre stated its not a clear section of the ordinance and is complicated;
587 she reiterated that in-kind replacement requires meeting today's setbacks. Mr. Schiffer
588 questioned why they would need to meet setbacks if they aren't proposing any realignment; it
589 will be rebuilt on the same foundation. He suggested that realignment would involve relocating a
590 structure.
591

592 The Board worked through the Special Exception worksheet.
593

594 ***Discussion – Case #Z24-31***

595 *The Board must find that all the following conditions are met in order to grant the Special*
596 *Exception:*

597 Mr. Lee stated that a plat/plan **has** been submitted in accordance with the appropriate criteria in
598 the Zoning Ordinance, Article 520.B. The Board agreed.

599 Mr. Rich stated the specific site **is** an appropriate location for the use. He stated the boathouse
600 has been in place since 1929; it will be renovated, aligned the same, built the same and he
601 believes it is appropriate. The Board agreed.

602 Mr. Morgan stated that actual evidence **is not** found that the property values in the district will be
603 reduced due to incompatible land uses. No factual evidence or testimony was submitted to
604 indicate values would be diminished. The Board agreed.

605 Mr. LaRochelle stated there **is no** valid objection from abutters based on demonstrable fact. He
606 stated there are concerns indicated by abutters but there was support by abutters for completing
607 this project. The Board agreed.

608 Chair Manning stated there **is no** undue nuisance or serious hazard to pedestrian or vehicular
609 traffic, including the location and design of accessways and off-street parking as there is no off

610 street parking. There is adequate space on this property. The Board agreed.

611 Mr. Lee stated adequate and appropriate facilities and utilities will be provided to ensure the
612 proper operation of the proposed use or structure. The Board agreed.

613 Mr. Rich stated there is adequate area for safe and sanitary sewage disposal and water supply and
614 this is made clear in the proposal presented. The applicant has indicated there will be a new
615 septic system installed, which will be approved by NH DES. Approval by the Board is
616 contingent on installation of a new septic system. The Board agreed.

617 Mr. Morgan stated the proposed use or structure is consistent with the spirit of this ordinance and
618 the intent of the Master Plan. He stated the section applied for, specifically addresses this sort of
619 situation. The Board agreed.

620 **MOTION: To grant the request for a Special Exception for Case #Z24-31 with the**
621 **conditions that any kitchen installed in the boathouse, be removed at the time of the**
622 **completion and issuance of the certificate of occupancy; and all NH DES approvals be**
623 **acquired. Motion by Mr. Morgan. Second by Mr. Rich. Motion passed unanimously.**

624 The Board took a five minute recess.
625

Case #Z24-32 Jones & Beach Engineers, Inc, Anthony Jones, Agent for Martha Campton Johnson Trust, Martha Campton, Trustee	Map 18 Lot 9 66 Black Point Road	Variance Lakeshore Residential Zone (LR)
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626 **A Variance** is requested from **Article 300 Section 327.A.2** to permit the reconstruction of a
627 dwelling and attached deck to be more nearly conforming.

628
629 Chair Manning read the public hearing notice into the record. The Board reviewed the
630 application for completeness.

631
632 **MOTION: To accept the application for Case #Z24-32 as complete. Motion by Mr. Lee.**
633 **Second by Mr. LaRoche. Motion passed unanimously.**

634
635 Anthony Jones, Jones and Beach Engineers, representative for the applicants, gave an overview
636 of the proposed reconstruction of the house. The garage will be retained. There is currently 214
637 square feet of deck and stairs which are outside the 25 foot setback from the frontage of the
638 property. The proposed building will be shifted back from the front setback; the new deck will be
639 less encroaching with the setbacks and will be less nonconforming, with 93 square feet in the
640 setback. Mr. Anthony stated they have worked to move the house back as far as possible; the
641 height will be 28 feet high and the current is 19 feet. The existing house is four bedrooms, and
642 the proposed house will be four bedrooms; there will be a new four-bedroom septic installed.
643 The driveway currently encroaches on a side setback but that will not be changed as it is paved.

644
645 It was noted a letter was received from an abutter indicating support of the proposal.

646
647 Chair Manning opened the hearing to input from the public in favor of the application. None was
648 indicated.

649
650 Chair Manning opened the hearing to input from the public in opposition of the application.
651 None was indicated.

652
653 Chair Lee closed public input.

654 ***Discussion – Case #Z24-32***

655 *The Board must find that all the following conditions are met in order to grant the Variance:*

656 Chair Manning stated granting the variance ***would not*** be contrary to the public interest. He
657 stated it will be an improvement to the lot and reducing the nonconformity. The Board agreed.

658 Mr. Lee stated the request ***is*** in harmony with the spirit of the ordinance and the intent of the
659 Master Plan to maintain the health, safety and character of the direct district within which it is
660 proposed. He stated the property will be less nonconforming. The Board agreed.

661 Mr. Rich stated that by granting the variance, substantial justice ***will be*** done. Mr. Morgan stated
662 the benefit to the applicant outweighs any detriment to the Town. The Board agreed.

663 Mr. Morgan stated the values of surrounding properties ***will not be*** diminished; he stated there is
664 no change in the structure or the traffic. There has been no evidence presented that would
665 indicate values would be diminished. The Board agreed.

666 Mr. LaRochele stated that for the purposes of this subparagraph, “*unnecessary hardship*” means
667 *that, owing to special conditions of the property that distinguish it from other properties in the*
668 *area:*

669 *i. No fair and substantial relationship exists between the general public purposes of*
670 *the ordinance provision and the specific application of that provision to the*
671 *property;*

672 *ii. The proposed use is a reasonable one.*

673 Mr. LaRochele stated the presence of the nonconforming deck and the existing detached garage,
674 create special conditions for the property; the proposed use is reasonable. The Board agreed.

675

676 **MOTION: To grant request for variance for Case #Z24-32. Motion by Mr. LaRochele.**
677 **Second by Mr. Morgan. Motion passed unanimously.**

678

679 **OTHER BUSINESS**

680 **1. Previous Business:** None.

681 **2. New Business:**

682 **a. Reappointment for Alternate, Michael Hepworth, 3-year term.**

683

684 **MOTION: To appoint Michael Hepworth as an alternate member of the Zoning Board of**
685 **Adjustment for a three year term. Motion by Mr. Rich. Second by Mr. LaRochele. Motion**
686 **passed unanimously.**

687

688 **b. Board to review and vote on an application for an alternate for Paul Monzione**

689

690 The Board reviewed the application.

691

692 **MOTION: To appoint Paul Monzione as an alternate member of the Zoning Board of**
693 **Adjustment for a three year term. Motion by Mr. Rich. Second by Mr. LaRochelle. Motion**
694 **passed unanimously.**

695

696 *c. Discussion about Planning Department letter sent to Bucky & Joey Holdings, LLC*
697 *and Wilson's Extreme Detailing, LLC.*

698 The Board reviewed the correspondence presented from the Town Planner, informing them that
699 the use is different than is currently there. A Special Exception and Site Plan approval may be
700 needed due to a change in the business operations.

701

702 **3. Approval of Minutes:**

703 Meeting of June 6, 2024- No edits were made. **MOTION: To approve the minutes as**
704 **presented. Motion by Mr. LaRochelle. Second by Chair Manning. Motion passed**
705 **unanimously.**

706

707 Meeting of June 20, 2024- Postponed.

708

709 **4. Correspondence:** None.

710

711 **MOTION: To adjourn the meeting. Motion by Chair Manning. Second by Mr. Rich.**
712 **Motion passed unanimously.**

713

714 The meeting was adjourned at 10:00 PM.

715

716 Respectfully Submitted,

717 *Jennifer Riel*

718 Jennifer Riel, Recording Secretary