

**TOWN OF ALTON
ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING MEETING
Thursday, October 3, 2024, at 6:00 P.M.
Alton Town Hall**

MEMBERS PRESENT

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

OTHERS PRESENT

Norma Ditri, Code Enforcement Officer
Christopher Drescher Esq.
Robert Flannery

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 asked Mr. Monziona to sit on the Board in Mr. Rich's absence.

APPROVAL OF AGENDA

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

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

1. NEW APPLICATIONS

Case #Z24-44 Christopher Drescher Esq., Agent for Robert Flannery & Alton Pittsburg, LLC., Applicant and Owner	Map 31 Lot 35 223 Trask Side Road	Administrative Appeal Residential Commercial Zone (RC)
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45 *An Administrative Appeal is requested in reference to a Notice of Violation from the Code*
46 *Official alleging unlawful storage of vehicles.*

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48 Chair Manning read the public notice for the appeal into the record.

49

50 Christopher Drescher, Esq., representative for Robert Flannery, applicant; he is also representing
51 Alton Pittsburg LLC. Mr. Drescher stated Mr. Flannery owns the property at 208 Main Street,
52 Tax Map 31, Lot 35. He stated the property is an improved lot with a three family building
53 located in the residential commercial zone; there is an accessory structure that has been there for
54 some time which is currently housing a septic business known as Herberts Septic and Site LLC.
55 Mr. Drescher stated they are challenging the interpretation of the definition of a contractor's yard
56 as defined by the zoning ordinance. He stated the Code Enforcement Officer has deemed that the
57 septic system business has turned the accessory building into a contractor's yard. Mr. Drescher
58 stated the business has been in operation at the property since last fall, about a year, and up until
59 recently there were no issues or complaints. He stated the business stores several vehicles
60 associated with the business; the septic business does not involve the storage of any materials on
61 site. At the time the notice of violation was issued, the septic business was performing some
62 work at the abutting property so there were more vehicles on the property than would have
63 normally otherwise been there at that time. Mr. Drescher stated that project has now ended; he
64 stated the notice of violation alleges that the septic business is unlawfully storing too many
65 vehicles at the property. Mr. Drescher noted that a contractor's yard is allowed in this zone by
66 special exception, and they will be applying for that but they are waiting on the proposed
67 conditions from the engineers. Mr. Drescher presented an existing conditions plan for review by
68 the Board.

69

70 Mr. Drescher referenced the ordinance and stated it is silent as to the number of vehicles that are
71 permitted at a lawful place of business on the lot; he stated the zone allows for a commercial use
72 so the issue is whether the storage of vehicles rises to the level of a contractor's yard; he stated
73 none of the materials outlined in the ordinance are present at the property and the notice of
74 violation doesn't make any allegations in regards to materials. He stated there is no definition of
75 equipment in the ordinance. He went on to reference NH case law with the New Hampshire
76 Supreme Court, which indicates interpretation of ordinances does not add words or meaning but
77 take them as stated. He reiterated the ordinance does not reference storage of vehicles and they
78 don't believe this is a contractor's yard, but the business is simply parking trucks on the lot. Mr.
79 Drescher stated the photos presented as part of the notice of violation were taken when the work
80 was being done, by the septic company, on the abutting property; he stated there was a lot going
81 on but it was all part of restoring the septic system on the abutting lot. Mr. Drescher stated
82 accusations were made about Mr. Flannery "stealing water" however the hookup to the water
83 system was reviewed by the Town and approved. He stated the driveway has been in place for
84 many years and no further permitting from the State is necessary. Mr. Drescher stated he
85 researched when the building that houses the septic business was built, and there have been a few
86 owners over the years but the deeds are clear back to 1995.

87

88 Chair Manning asked when they expect to apply for the special exception. Mr. Drescher stated
89 they are waiting on a single plan and will then submit the application, hopefully in time for the
90 next month's meeting.

91

92 Mr. LaRochelle asked what equipment is parked on the lot. Mr. Flannery stated he has some
93 trucks and tools.

94

95 Mr. LaRochelle stated the prior code enforcement officer, in 2023, documented activity on the
96 lot and talked with the people there at the time, noting it appeared a contractor's yard was being
97 started at that time. The notes indicate it was suggested to the property owners at that time a
98 special exception be obtained. Mr. Flannery stated that is news to him and he is not aware of any
99 conversations regarding this.

100

101 Mr. Monziona questioned whether the business owner or property owner should be applying for
102 the special exception. Mr. Drescher stated he believes it would be acceptable for either party to
103 apply for the special exception for a contractor's yard as it does not run with the land. Mr.
104 Monziona also suggested the applicant hold the appeal in abeyance without waiving the right to
105 go forward, pending a decision on the special exception. Mr. Drescher agreed.

106

107 Ms. Ditri referenced the zoning ordinance, indicating Section 320.4, requires a nonresidential site
108 plan. Mr. Monziona noted a special exception would be contingent on a site plan approval. Ms.
109 Ditri noted there is also no paper trail regarding the water supply, including the hookup of the
110 water supply and where the wastewater is going.

111

112 **MOTION: Based on the fact the applicant has agreed to submit an application for a**
113 **Special Exception for a Contractor's Yard in time for the next Zoning Board of**
114 **Adjustment meeting, to continue the application for an appeal until the next meeting,**
115 **conditional on the application being submitted for the special exception. Motion by Mr.**
116 **Monziona. Second by Mr. Lee. Motion passed unanimously.**

117

118 **OTHER BUSINESS**

119 **1. Previous Business:** None.

120 **2. New Business:** None.

121

122 **3. Approval of Minutes:**

123

124 Meeting of September 5, 2024- Edits were made. **MOTION: To approve the minutes**
125 **as amended. Motion by Mr. LaRochelle. Second by Mr. Lee. Motion passed**
126 **unanimously.**

127

128 **4. Correspondence:** None.

129

130 **MOTION: To adjourn the meeting. Motion by Mr. Lee. Second by Mr. LaRochelle. Motion**
131 **passed unanimously.**

132

133 The meeting was adjourned at 6:35 PM.

134

135 Respectfully Submitted,

136 *Jennifer Riel*

137 Jennifer Riel, Recording Secretary

APPROVED