

# ZBA Minutes Draft Only

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## Town of Sandown Zoning Board of Adjustment Minutes 04/29/10

### Draft Only

<b>Meeting Date:</b>	April 29, 2010
<b>Type of Meeting:</b>	Regularly Scheduled
<b>Method of Notification:</b>	Public Posting ~ Sandown Town Hall & Sandown Post Office; Website and the Carriage Towne News.
<b>Meeting Location:</b>	Sandown Town Hall
<b>Members present:</b>	Vice Chairman Doug Martin, Ken Sherwood, Curt Sweet, Alternate B.J. Richardson and Steve Brown, Selectmen's Liaison
<b>Also present:</b>	Administrative Aide Bette Patterson
<b>Absent:</b>	Chairman Steve Meisner

Vice Chairman opened the meeting at 7:00 p.m.

### Case #1 Map 28 Lot 33 Property Location 38 Lakeside Drive

LeBaron S. Atherton requesting a variance from Article II Part A Section 16 (B.1) of the Sandown Zoning Ordinance to install a septic system with less than required setbacks from wetlands and lot lines.

Tim Lavelle presented the plan on behalf of Mr. Atherton. Mr. Lavelle stated that the septic system is a clean solution system. The affluent goes into a tank that is aerated and acts like a filter. The reason for the design is to clean the affluent as much as possible. The affluent coming from the new system is supposed to be 90% clean when it comes out of the tank. There will be an air pump in the basement that will operate it. The proposed location of the system is 27 feet from Angle pond. The existing system is on Town owned land. This property was granted an easement to continue to use the existing system by the Board of Selectmen in April of 2000. The easement is specific in that it says that in the event of failure, it has to be moved on to the owner's property.

Ken Sherwood stated that there is an old dry well in that location. He asked if that was the original septic tank.

Mr. Lavelle responded yes, however, it was the tank cover that collapsed. The water line actually runs through the well. Mr. Lavelle stated that he would add notes to the plan referencing any waivers that are issued by the State of NH.

The board discussed with Mr. Lavelle the possibility to moving the system back further or on a different part of the property. Mr. Lavelle stated that they could not meet the well radius requirement to the abutting property. Mr. Sherwood asked if the system could be moved up to the shed/driveway area and pump up to it. Mr. Lavelle stated there is not enough room to do that and there is too much ledge.

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51 Mr. Lavelle also stated that there is a concrete pad under the deck which is where the  
52 proposed new system would be located.

53  
54 Mr. Richardson stated that he is concerned that the deck, as shown on the plan, would  
55 be supported by the septic tank.

56  
57 Mr. Lavelle explained that it's not uncommon to do this, however, if the board doesn't  
58 want it that way, they can change it.

59  
60 Mr. Atherton, the applicant, stated that they tried to empty the existing tank, however,  
61 they could only go down four feet.

62  
63 Mr. Richardson asked if the old tank would be removed.

64  
65 Mr. Lavelle stated that the old tank would be removed and replaced with the new  
66 system. The leach field would remain on the town property as is.

67  
68 Mr. Sherwood stated that if it's a dry well it should be filled in. He commented that the  
69 new system is an improvement to what is there now.

70  
71 Mr. Lavelle reviewed the criteria for a variance as submitted in the application.

72  
73 Mr. Sweet noted that the plan presented is not certified.

74  
75 Mr. Lavelle stated that the measurements are correct, however, the reason it is not  
76 certified is because this is strictly a septic plan only. This plan could not be used for  
77 survey purposes.

78  
79 Vice Chairman Martin opened the meeting to abutter's comments:

80  
81 Several of the abutters took the time to review the plan.

82  
83 ***Abutter's comments:***

84  
85 Robert Millard stated he has a document that says if the tank fails it has to be taken out,  
86 and the land restored.

87  
88 Mr. Lavelle stated that they are only asking for the variance for the design at this time.  
89 The existing tank is not in failure at this time.

90  
91 Robert Millard disagreed, stating that the system is in failure. The property has been  
92 empty for 5 years but every time it rains it fills up and flows down the hill.

93  
94 Vice Chairman Martin stated that there is no record that the system is in failure.

95  
96 Robert Millard stated concern that the right of way on the property be put back to the  
97 way it was originally.

98  
99 Vice Chairman Martin stated that the board understands the concerns raised by Mr.  
100 Millard, however, the ZBA is only here to address the request for a variance to locate a  
101 septic system without the proper setbacks.

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103 Robert Millard asked if the board grants this and the property restored will the parking lot  
104 be removed and the two out buildings that were installed without permits? He also  
105 asked if the variance could be granted with those conditions. He stated the Town does a  
106 terrible job of protecting the lake. Mr. Millard also showed the board photos of the  
107 property.

108

109 Vice Chairman Martin read the following letter from an abutter into the record:

110

111 *Dear Zoning Board of Adjustment,*

112

113 *My wife and I have lived here at 33 Lakeside Drive since 2003 and in that time have seen the*  
114 *ROW property change in appearance due to the previous abutter John Wyman. During this time,*  
115 *Mr. Wyman has permanently parked several construction vehicles and a 26' trailer on the ROW,*  
116 *paved to extend his driveway on to the ROW property, cut down trees and bushes, blocked*  
117 *access to the lake by snowmobiles during the winter, and intimidated residents from using the*  
118 *ROW until his departure sometime in 2008. In speaking to many of the residents in the*  
119 *neighborhood who are also deeded rights to this ROW property, we are fearful that this may*  
120 *occur again with the new or future owners of 38 Lakeside Drive. In speaking with LeBaron S.*  
121 *Atherton, I made it extremely clear that actions of this type will not be tolerated in the future and*  
122 *that this ROW is for use by all whom are deeded to it and he assured me that he will abide by*  
123 *this. As for the petition for a variance, I have but a few questions. I would like to know what if*  
124 *anything Mr. Atherton plans on doing or is required of him relating to the removal of the old septic*  
125 *holding tank or parts that are currently installed on the ROW property? I feel that any part of the*  
126 *old septic system must be removed due to my environmental concerns before any new septic*  
127 *system is installed on or near the ROW property and that the ROW be returned to it's current*  
128 *appearance following the installation. My second question relates to the Septic plans that I*  
129 *viewed this morning for that property. The plans dictate that the deck be removed so that the*  
130 *second septic holding tank, piping, and leaching field can be installed in that area however Mr.*  
131 *Atherton recently renovated this same deck with new decking, rails, etc.. What is to happen with*  
132 *this deck and can it be re-installed over the planned septic system. If these two questions can be*  
133 *resolved and the complete understanding that this property of not the property of any current*  
134 *and/or future owner of 38 Lakeside drive, I have no objections to allowing a variance on the*  
135 *ROW.*

136

137 *Sincerely*

138 *James Conte*

139 *Leslie Morgan Conte*

140

141 Mr. Lavelle stated that this plan shows exactly where the right of way is and the  
142 boundaries of the road.

143

144 Vice Chairman Martin closed public comment.

145

146 Ken Sherwood stated that some of the concerns that Mr. Millard raised have not been  
147 addressed. Paving on the right of way is something that may be able to be addressed  
148 by the road agent. If the existing system is a stone and pipe system, it should be  
149 removed, however, if it's another type, it should be filled in.

150

151 Curt Sweet stated that this board is really here to address the setback issue. The  
152 concerns brought to this board need to be addressed by the Board of Selectmen. The  
153 proposed new septic system will be better than what is existing.

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156 Ken Sherwood agreed that installing a better system will protect the pond and there  
157 could be a condition in the approval that the system must be installed within 6 months.  
158 Mr. Sherwood reiterated that the existing system is not in failure at this time.

159  
160 B.J. Richardson stated that his first concern is that there was a problem with trying to  
161 pump the existing system which may indicate that it is in failure. He stated that he is  
162 leaning in the direction of mandating that the existing system be removed.

163  
164 Vice Chairman Martin stated that he likes the new system but would like to see it  
165 installed without the deck being built on it.

166  
167

168 MOTION: Ken Sherwood made a motion to GRANT a variance to **LeBaron Atherton**  
169 from Article II Part A Section 16 (B.1) of the Sandown Zoning Ordinance to install a  
170 septic system with less than required setbacks from wetlands and lot lines. The property  
171 is shown on Map 28, Lot 33 on the Sandown Tax Map, 38 Lakeside Drive.

172

173 The following conditions shall apply:

174

- 175 • Existing (old) septic system to be removed.
- 176 • New septic system, meeting all required standards, shall be installed no later  
177 than October 31, 2010 or this variance shall be null and void.

178

179 Curt Sweet seconded. Voted unanimously in the affirmative. MOTION PASSED.

180

181

182 **Application Review(s) for May Meeting - No applications submitted**

183

184 **Review of Minutes – March 25, 2010 - Approval delayed until May meeting**

185

186 **Old & New Business**

187

188 Ken Sherwood recommended that the zoning ordinance be re-codified.

189

190 **Adjournment**

191

192 MOTION: Curtis Sweet made a motion to adjourn. B.J. Richardson seconded. Voted  
193 unanimously in the affirmative. MEETING ADJOURNED AT 8:30 P.M.

194

195 **Respectfully submitted,**

196

197

198

199 **Bette Patterson**

200 **Administrative Aide**