

ATKINSON ZONING BOARD OF ADJUSTMENT
21 Academy Avenue
Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall
Wednesday, January 13, 2010

Present: Hank Riehl, Vice-Chairman; Glen Saba; Sam Zannini

Mr. Riehl called the meeting to order at about 7:30P.M.

Approval of Minutes:

Members of the Board present at the last hearing were not present. Approval continued until next month.

Correspondence

Incoming

1. Zoning Board Budget Printout dated 12/21/09
2. Letter from Attorney Kalman dated 12/7/09 advising Board of changes to RSA 674:33, Standards and Elements for a Variance
3. Memo from Technology Committee dated 12/16/09 regarding work towards new town website
4. E-mail memo from DES Sandy Crystal regarding amendments to RSA 482-A
5. E-mail from Sandy Carter advising he cannot attend 1/13/10
6. E-mail memo from applicant Michael Zedalis regarding DES opting not to intervene on Prime Wetlands issues on Zedalis' lot
7. E-mail from Osborns advising ZBA of typographical error of dates in memo to Osborns on 12/18/09

Outgoing

1. 12/10/09 Shawn Meuse, notice of Continuance to 1/13/10 meeting re Allen property, 9 Emery, Map 16 Lot 32
2. 12/10/09 Robert Williams, Home Business Renewal approved, 45 Sawyer Ave Map 3 Lot 68
3. 12/10/09 Michele Dugdale, Home Business Renewal approved, 11 Old Coach, Map 7 Lot 199-34
4. 12/18/09 Certified mail to Osborns, 8 Valcat, Map 22 Lot 47 notice that request for continuance was denied
5. 01/08/10 Letter to Mr. Zedalis in response to e-mail suggesting he obtain letter from DES

Certified letter to Osborns to correct typographical date error of 12/18/09

Mr. Riehl explained that since there were only three members of the Board the vote

would have to be unanimous. He gave the applicant the opportunity to continue to the next regularly scheduled hearing. The applicant requested to proceed for this hearing.

Public Hearings – 7:30 P.M.- Continued from October 14:

Michael Zedalis request for Variance from Article 410:8 of the Zoning Ordinance to permit construction of a 12'x38' deck, 64' from prime wetlands (36' variance) as opposed to the required undisturbed buffer area of at least 100' on property located at 4 East Road, Map 10, Lot 5, TR2 Zone.

Abutters list was read with the following present:

Michael Zedalis: Jim Kirsch for the Town of Atkinson

Mr. Riehl informed the Board that the State opted not to take jurisdiction. The Board reviewed the information they already had from the previous hearing. Mr. Zannini stated that the driveway already existed and that the deck was being built over a portion of it. Mr. Saba said the deck was open and did not impact the wetlands because the paved driveway was already there. The deck is already roughed framed. The Board discussed the Conservation Commission's request for mitigation with low maintenance, low cost plants. Mr. Zedalis said he was open to that as long as the cost was not great. The Board reviewed the criterion"

1. Based on the discussions this was met.
2. Based on the discussion this was met.
3. 1.) This was an area variance. The intent of the setback is to protect the wetland. The driveway already exists and the open deck does not increase runoff. The Board agreed this was met. 2.) Based on discussions this was met.
4. Based on the discussions this was met.
5. Meets the spirit and intent because there is no impact on the wetland and the plantings will mitigate any runoff.

Mr. Zannini made a motion to approve the variance as stated based on all of the criteria having been met and contingent upon Mr. Zedalis meeting with the Conservation Commission to come up with a planting mitigation plan for low cost and low maintenance plants. Mr. Saba seconded and it was unanimously approved.

Public Hearings – 7:50 P.M.:

Shawn Meuse for Robert Allen request for Variance to Article IV, Section 410:8b of the Zoning Ordinance to permit permanent concrete slab for temporary garage 26' (74' variance) from wetland as opposed to the required 100' on property located at 9 Emery Drive, Map 16, Lot 32 RR3 Zone.

Mr. Meuse or his representative did not appear for the hearing. The Board continued with the next hearing and then returned to this matter. The Board asked Sue Killam if she had received any message asking for a continuance. She said there were none.

Mr. Zannini made a motion to deny the request without prejudice. Mr. Saba seconded and it was unanimously approved.

Public Hearings – 7:50 P.M.:

Peter Ashworth request for Variance to Article IV, Section 400:4 and 410:8 of the Zoning Ordinance to permit a 12x12 Shed within 15' of side lot line and within 100' from wetland on property located at 5 Leroy Avenue, Map 13 Lot 80, TC zone.

Abutters list was read with the following present:

Peter Ashworth

Mr. Ashworth submitted plans which showed the shed, which had already been constructed. The property already had a 26 x 26 foot garage which was 1' from the side lot line. Mr. Riehl read a letter from the Conservation Commission which was in favor of the approval because the garage already existed and the wetland was of low value. Mr. Ashworth purchased the home with the garage already constructed. Mr. Saba asked what was stored in the shed. Mr. Ashworth stated it was yard items, lawn mower, etc, It did not have heat or plumbing.

The Board reviewed the criteria:

1. The Board agreed that the conditions were not worsened because of the shed.
2. The Board agreed this was met as stated on the application.
3. 1.) The Board agreed this was met as stated. 2.)
4. The Board agreed this was met as stated on the application
5. The Board agreed this was met as stated on the application. Conservation Commission had recommended the approval. The property had already been issued a Variance and the garage was already 1' from the sideline. The Board reviewed the plan and there was no other location to place the shed, without encroaching a wetland.

Mr. Saba made a motion to grant the variance of 10.8'+/- to the sideline setback and 19.10' +/- to the wetland, based on all of the criteria having been met. Mr. Zannini seconded the motion and the Motion passed unanimously.

The Board discussed the proposed changes to the ZBA “rules of procedure” Mr. Zannini suggested that there be a notary requirement for applicants who appoint someone else to represent them at hearings. Mr. Riehl and Mr. Saba agreed this was a good idea. The Board accepted the proposed changes.

Mr. Zannini made a motion to accept the amended ZBA Application, adding the requirement for a notary. Sue Killam will review for grammatical errors, etc. The Motion passed unanimously.

Motion to adjourn was made and seconded. Mr. Riehl adjourned the hearing at 8:40 P.M.

Respectfully Submitted

Minutes transcribed from tape

Rebecca Russo