

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

Public Hearing Meeting Town Hall
Wednesday March 10, 2010

Present: Hank Riehl, Vice-Chairman; Sue Miner; Sandy Carter; Sam Zannini

Mr. Riehl called the meeting to order at 7:25 p.m.
Correspondence

Incoming

- 1) Report of Monthly Expenditures to 2/28/10
- 2) Publication Town and City February 2010

Outgoing

- 1) Notice of Decision to Murray 2/10/10

Approval of minutes - deferred to next hearing

PUBLIC HEARINGS: 7:30 P.M.

Stephen Rothwell submission of an Application for Variance from Zoning Article V Section 530:g (2) (footnote) to allow an Accessory Structure (storage/workshop) to be 18 feet tall instead of 15 feet tall on property located at 3 Scottsdale Road, Map 3, Lot 56, TR 2 Zone.

Abutters List was read with the following present:
Stephen Rothwell; Mabel Barnette

Mr. Rothwell explained that he wanted to build a barn style detached storage shed approximately 16' x 28'. He needs the 3 foot variance for the pitch of the roof. He wants the added storage space but also wants the shed to look nice. If he kept the height at the required 15 feet it would almost be flat and would look like a big box in his yard. There is no issue with the setbacks and everything else is met except for the height. He will use the space as storage and a workshop. He wants to move all of the stuff currently in his garage to the storage shed so he can park his vehicle in the garage. He has already put in the footings and was not aware there was a height restriction. This is a wood structure and does not have a cement slab. The lot does slope down a little on that side and he has excavated so it will sit into the lot on that side. He plans on landscaping the area and making it look very nice. There will be double French doors on the front. The Board reviewed the plot plans and photos.

Mr. Carter believed there were a lot of two story garages in Town, one being next door to his home, Mr. Zannini agreed. This was considered an accessory building because it was not attached to the house. Mrs. Miner read the definition for an accessory building and stated there was no definition for a garage. Mr. Riehl asked about alternatives. He thought the lot was not constrained and perhaps the size of the building could be reduced to meet the height requirement. Mr. Rothwell explained he did not want something that looked like a box and wanted to build something that did not look commercial. He thought this would fit nicely into the neighborhood and be in character.

Ms. Barnette said she owned the property to the left and although she did not live there, she rented it to her grandson and was concerned about the loss of value to her property. She thought it would affect the view and that the Board would be setting a precedent if this was allowed. She did acknowledge that there were no other abutters present to speak against it. She thought the character of the neighborhood would change and it would be more commercial. Mr. Riehl explained that the applicant would be able to construct this without any variance if he did not want the extra 3 feet of height because he met all of the other setbacks, so the building was not the issue; it was only the height of the building. Mr. Carter reiterated that the applicant could build an even bigger building than he is proposing because he could still meet the setbacks. Mr. Carter also said that if the garage were attached to the house then it would be allowed to be 35 feet tall, but even if there were a one inch separation the height requirement would only allow 15 feet.

The Board reviewed the criteria

1. The board discussed that if the height remained at 15' the applicant could still construct the shed, but it would be less aesthetic. Riehl said the voters and Planning Board implemented a 15 foot height limit for a reason. He did not see anything on the property that would limit the size of the building. Mr. Carter agreed but believed the public interest is not served by having the applicant build a box that looked less aesthetic and more commercial. Mr. Zannini said that is why there is a variance process so that applicants can get relief. If there was a literal enforcement then there would be no need for variances. Mr. Rothwell said that he cannot increase the size of the building because of the grade of the land and the septic system. Mr. Zannini discussed the approaches for granting of variances. **The Board agreed this criterion was met, 3 in favor of and one abstention.**
2. This would preserve the character of the neighborhood. **The Board agreed this condition was met.**
3. No gain to the general public by denying it. **The Board agreed this criterion was met.**
4. **The Board agreed this was met. Three in favor of and 1 opposed.**
5. Based on the discussions Mr. Riehl had a hard time fitting this into the hardship definition because he thought the applicant did have alternatives. Ms. Miner wondered whether the 15 foot restriction was put in to limit the size of a structure. Mr. Carter made an observation that if he was storing hay it he could build up to 35 feet because it would be agricultural. Mr. Zannini talked about the reasonableness of the proposal. It is a permitted use, the Board voted that it would

not diminish surrounding property values; the Board voted that it would not violate the spirit of the ordinance, the substantial justice has been met and the size of the building is not the issue before the Board. It is a variance of the height requirements only. Ms. Miner questioned the hobby as it pertains to the use that Mr. Rothwell intends to use it for. Mr. Rothwell explained he is a carpenter and has tools. He is constantly doing crafts and building little things. He needs a space. Ms. Miner said the shed would be able to hide other things that would be left outside. The Board reiterated this is not a use variance but a dimensional one. **The Board agreed this was met, 3 in favor of and one opposed.**

Mr. Carter made a motion to approve the application as stated above to allow the height limitation to be increased to 18' based on all of the criterion being met. Ms. Miner seconded the motion and it was approved, 3 in favor or and one against.

Ms. Barnette wanted to go on record that her property would be greatly affected. Mr. Riehl explained the 30 day appeal period.

Motion to adjourn was made and seconded. Mr. Carter adjourned the hearing at 8:50 P.M.

Respectfully Submitted

Minutes transcribed from tape

Rebecca Russo