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

Public Hearing Meeting Town Hall
Wednesday February 9, 2011

Present: Hank Riehl, Chairman; Glenn Saba; Robert Waldron, Sam Zanini

Mr. Riehl called the meeting to order at 7:30 p.m.

Approval of Minutes of January 2-11.
Mr. Saba made a motion to accept the minutes as presented. Mr. Waldron seconded and they were unanimously approved. (Mr. Zannini not in attendance)

Mr. Saba made a motion to accept the minutes as amended. Mr. Waldron seconded and they were approved. (Mr. Saba, Mr. Waldron and Mr. Riehl voting)

Public Hearing: continued from January 26, 2011 - 7:3O P.M
David Royce, request for Special Exception as specified in Zoning Ordinance Article IV, Section 460:1and 2 to permit Accessory Family Living Unit in residence at 4 Sawmill Road, Map 8 Lot 64 in the TR2 Zone.

Based on the applicant's request for a continuance, Mr. Saba made a motion to approve a continuance to the next regularly scheduled hearing. Mr. Waldron seconded and it was unanimously approved.

Public Hearing: - 7:40 PM
2) Lavelle Associates representing Sandra Fuhs, Application for a Variance from Article IV Section 410:8 to allow an addition to an existing dwelling 66 feet from the water (34 foot variance) and for a proposed covered porch to be 20.5 feet from the water (79.5 foot variance) and a Variance from Article V Section 530 to allow the addition to be 7.5 feet from the side lot line and for the proposed deck to be 2.12 feet from the side lot line, at 35 Boulder Cove Road, Map 23, Lot 74, RR3 Zone.

The list of abutters was read with the following present:
Michael Saviano, Jr., Tim Lavelle, Sandra Fuhs, Attorney Morgan representing Michael. Saviano, Sr.

Mr. Lavelle stated they had met with the Conservation Commission and presented a letter to the Board. He presented colored copies of the proposed addition. They have an application in to the State for the Shoreline Protection and have not heard back as of this meeting. The State approved

the septic system in 2009 and the approval is good for 4 years. There is an existing dwelling with deck. They are proposing an addition on the back. Most of it will be a garage, with a porch on the side that attaches to the existing deck. This is on the side of the Allen property. Even the back of the house is closer than 100 feet to the water because of the size of the lot. The existing driveway goes down around a pole. The existing septic system is under the gravel driveway and they are proposing to replace it with the State approved system up at the top of the lot. They will replace the driveway with a much shorter one located at the top of the lot with impervious pavement. The lot will be cleaned up. There will be roof gutters going to drywells to deal with the storm water runoff. The existing driveway area will be re-graded and vegetated so that the waters do not run toward the lake.

Mr. Riel asked about the existing camp shown on the plan. Mr. Lavelle explained it was owned by Mr. Saviano, whose home is further down to the south of this property. It is an old camp which is three feet over the property line. The proposed addition is basically at the second floor of the existing structure. The property drops toward the lake quite a bit. The proposal is for the garage to be up top. Ms. Fuhs said they were hoping that this would also work as a retaining system. There is a retaining timber wall now, which has failed. The hill above is a problem because of the drop. She believed the lot would become more stable and help with erosion and runoff. Ms. Fuhs indicated that her proposal was asking for a farmer's porch, and there is an existing porch that is about half the building with another little entryway. This area is all cement and the proposed farmer's porch is going in that location. She was really only adding the roof and there was no expansion of the impervious area. Mr. Saba asked if the existing structure was going to be razed. Mr. Lavelle said it was going to be reconstructed. It will be taken down and a new foundation put in. They will rebuild on the existing footprint and then add the garage area in the back. Mr. Saba asked how much height was being gained. Mr. Lavelle indicated they would not be gaining much at all. Because of the foundation added under the new structure, the garage addition will be almost the same height as the second story of the house. The garage will be a 1 ½ story structure with an attic storage space. This will not be a finished space. Mr. Fuhs explained that another aspect of the proposal was with the existing deck. Mr. Waldron asked if the addition was only the garage. Ms. Fuhs explained that there is another little area with a half flight of stairs that lets you get to the attic area. Mr. Saba asked for a copy of the layout of the proposal. Mr. Riehl asked again if the additional included more than just a garage. Ms. Fuhs explained that there was a little more than a garage. There was an additional area that allowed her to move one of the bedrooms to the first floor and have two larger bedrooms with a bathroom on the second floor. Currently there are three small bedrooms on the second floor. Mr. Riehl asked about existing versus proposed living space. The proposed addition has approximately 2400 square feet. They did not have the exact footage of the existing dwelling. This is a year round dwelling. Mr. Saba inquired who was in charge of inspecting drywells. Mr. Lavelle thought it was Mr. Jones, but the Board was not sure. Mr. Riehl asked what the change in the impervious area was. Mr. Lavelle explained that the area was being decreased from the current 30% impervious down to 24%.

Mr. Riehl asked for abutter input. Attorney Morgan, representing Michael Saviano Sr., expressed his concerns that they had only seen this plan today and they have not really had a chance to study this. He believed Mr. Saviano had forwarded an email to the Board addressing some of his concerns. Mr. Riehl could not find the email, but acknowledged it might be in the office. He

stated that Mr. Saviano's and the applicant had several email conversations in an attempt to address some of his concerns. Unfortunately the concerns were not resolved. Mr. Saviano believes there are a number of important structural factors, which he does not have information about. Attorney said if they had more time to go through the proposal with the applicant before the submission they may have been able to resolve some of the concerns. A Specific concern that Mr. Saviano has is the existing structure which is non-conforming in a number of ways. There is a three acre zoning requirement and this lot is substantially undersized. The buildings on both Mr. Saviano's property and abutting properties have been there for quite some time. There have additions to this over the years and they do not know where the foundations are. They did not know what the proposed new construction versus old construction was. They are not sure of the dimensions of the dwelling. The math does not work. It appears that the proposed garage/additional area are larger than the existing structure. A lot of Mr. Saviano's concerns are linked to the topographical drawing showing the gradients. That area, including Mr. Saviano's lot has a significant gradient. There is a lot of elevation toward the back of the lot. He stated that Mr. Saviano recalls that the area of the proposed addition runs directly along his property line. There will be a significant encroachment on his entire side lot line. The existing driveway will change from a location that went around the other side of the lot to directly along his lot. This is up against a stone wall and a fence. Attorney Morgan stated that this area of Boulder Cove is not a public road and is a private way. He is not sure the applicant has the right to relocate the driveway. There is an access easement. They believe this area of the lot is higher than the rest of the lot. Without elevations they have no idea how much excavation has to be done. It appears that it would call for a significant amount along the property line and likely have a significant adverse affect on the stone wall and chain fence, It would eliminate any reasonable buffer. There are also utility issues that would involve cutting of his trees, which he is not in favor of. Ms. Fuhs said she asked Mr. Saviano if he would be willing to have one tree removed as this is all the Utility Company needed. If he does not want to do it she will have the pole moved to another location of her lot. Attorney Morgan did not feel that this would meet the criteria of a Variance. He questioned the coverage of the lot with this proposed addition. He thought the structure would make more sense, given the topography, to turn the addition away from the lot line instead of hugging it. It wouldn't require the movement of a pole or the relocation of the driveway. Mr. Saviano was concerned about the structure being so close to his lot line and the impact of loss value. Ms. Fuhs showed the Board pictures of the area and how there really was no existing buffer between the houses right now. He also questioned whether there was an appropriate right of way access to relocate the driveway. Ms. Saba asked if there a requirement for driveways and distance to a lot line. There was not.

Mr. Lavelle explained that he understood Mr. Saviano's concern and the suggestion that the addition could be turned, and keep the driveway in the present location. If the applicant was to turn the addition it would disturb more of the lot because they would be fighting it. You would be trying to put a garage up on top of the hill and from the existing driveway you would have to drive down and then back up to the garage. They have looked at all of these other options. They also took into consideration how much construction there would be on the lot. Mr. Lavelle indicated he does have topography plans showing the elevations that would give the Board and the abutters an idea of the height difference. He believed this would clarify the proposal instead of where they think it might be better suited. The garage is the same height as the second floor now and this proposal was designed to work with the lot rather than against the lot. This plan

offers the least amount of disturbance to the lot. He suggested that they continue the hearing to the next meeting so that he could provide those plans and also get the approval on the plan submitted to the State.

Mr. Riehl suggested a site walk. Mr. Saba did not know if the Board would be able to see anything with the amount of snow. Mr. Lavelle said they would be able to see the topography of the land and the amount of fill required if the addition was shifted over, as Attorney Morgan had suggested. Mr. Zannini asked if the stone wall on Mr. Saviano's property was in danger. Mr. Lavelle responded that the stone wall was not in danger and would not be touched. Mr. Saba asked about the status of the camp, part of which is on the applicant's property. Mr. Saba asked about squatters' rights and was concerned about the variance becoming larger if there are any rights given to the status of that camp. Ms. Fuhs explained that there is an easement and is allowed to stay where it is but cannot be rebuilt. Mr. Lavelle believed that by virtue of the easement, it did not enjoy any squatters' rights. Attorney Morgan said he had not read the easement and was not sure of the rights the camp may have. Ms. Fuhs said it was explained by the Title Lawyers when she purchased the property. The Board agreed to have a site walk on March 6th.

Mr. Saba made a motion to continue to the next regularly scheduled hearing. Mr. Waldron seconded and the motion was unanimous.

Motion to adjourn was made and seconded. Mr. Riehl adjourned the hearing at 8:30 p.m.

Respectfully Submitted _____

Minutes transcribed from tape ***Rebecca Russo***