

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

Public Hearing Meeting Town Hall
Wednesday April 13, 2011

Present: Hank Riehl, Chairman; Glenn Saba; Sam Zannini, John Recesso

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

Correspondence:

Incoming:

Town and City March 2011

Letter from David Royce requesting Rehearing due to the fact that he has installed the new septic system as required for his Extended Family Accessory Living Unit. The Board discussed and deemed this to be a “material change” to the conditions. Mr. Zannini made a Motion to grant the rehearing request by David Royce, of 4 Sawmill Road, Map 8 Lot 64; the Board voted unanimously to allow Mr. Royce to come back with this new information regarding his property; scheduled to rehear May 11, 2011. Chairman Riehl noted that abutter notification is required.

Outgoing: None

Approval of Minutes of March 9, 2011. The Board began reviewing the Minutes prior to the Public Hearings, and suspended the review at Page 5.

Public Hearings: 7:35 PM

Chairman Riehl introduced the first hearing by reading the notice:

George and Laura Murray submission of an Application for Variance from Article IV Section 410, Wetlands Setback, to allow construction of 8 foot wide farmer’s porch to be 92.4 feet from Wetlands, (7.6 foot variance) at 6 Murray Drive, Map 15, Lot 32, TR2 Zone.

Chairman Riehl read the list of abutters; only the Applicant, Mr. Murray was present for the hearing. Mr. Riehl invited Mr. Murray to the table, and asked him to provide a summary of the relief he is seeking. Mr. Murray explained that he is seeking to build a wrap-around farmer’s porch which will extend 8 feet out from the house. Currently the foundation certification shows it is 104 feet to the adjacent wetland. The porch being 8 feet wide would make it 92.6 feet from the wetland, as compared to the 100 feet required. Mr. Riehl asked if Mr. Murray could characterize the wetlands. Mr. Murray said it is wet in the spring, and dry 6 to 8 months of the year. The stream is 150 to 200 feet away from the house. Mr. Riehl asked him if he had contacted the Conservation Commission. Mr. Murray answered that he wasn’t aware he had to, but that he had sent an e-mail to the e-mail address on the town website on April 7, 2011. Mr.

Riehl noted that there is no obligation to go before the Conservation Commission, but the ZBA does rely on them to define how valuable a wetland is, and that they do find their assessments helpful. The Board discussed the relative location of the site in question, noting that Murray Drive is off Crystal Hill which is off East Road. They reviewed some photos of the site that Mr. Murray had with him. Mr. Riehl recapped that a farmer's porch is basically a covered deck, and asked if there were plans and would there be gutters? Mr. Murray responded that the plans have not been drawn yet, but that he intends for it to wrap around the front and then 16 feet towards the back. Mr. Saba asked what would be the foundation: The response was "columns." Mr. Riehl returned to the question about the quality of the wetlands, stating that he would be more comfortable proceeding after hearing from Conservation, even though he hates to hold up the application for just 7 feet. Mr. Saba stated that it seems simple, but without Conservation's blessing we can't be 100% sure. He asked if there were other opinions from the Board. Mr. Recesso, looked at the map, and suggested the area doesn't look significant, but agreed it would be nice to get feedback from Conservation. Mr. Zannini agreed that was reasonable. Mr. Riehl explained the Board can do what they want, but that he personally can't act in the affirmative, and he asked Mr. Murray if he could request to meet with Conservation at their next regular meeting which is the first Monday of May, and then return to the ZBA on May 11, 2011. Mr. Murray said he is taking vacation in 2 weeks, and was hoping he could start the work on the porch. He asked if it was possible to get a ruling by then. Mr. Riehl asked the Board if anyone wanted to float a conditional approval motion. The Board discussed the process of going through the 5 Variance criteria, and explained to Mr. Murray that once they start the process they will issue a decision to approve or deny, and that it might be better for him to request the continuance to May instead of risking the denial now. Mr. Murray asked for further clarification of the procedure, and then asked for the continuance. Sam Zannini made a motion to grant the request for continuance to the ZBA meeting of May 11, 2011, seconded by Glenn Saba; the Board voted unanimously in favor to continue.

The Board took a short break, and resumed the meeting at 8:20PM.

Mr. Riehl introduced the next hearing by reading the notice:

Rob Waters and Laurie Lombardi, for Lorraine Waters, Application for Special Exception per Article IV Section 460 to allow Extended Family Accessory Living Unit at 18 Providence Hill Road, Map 7 Lot 106, TR2 Zone. He read the list of abutters, with none present. Mr. Rob Waters represented for himself, his sister Ms. Lombardi, and his mother, Mrs. Waters. Mr. Waters gave a brief summary of the situation. His mother owns the property, and his sister wants to buy it and have Mrs. Waters continue to live there in a lower level Extended Family Accessory Living Unit. In order to complete the transaction his sister needs to give the bank evidence that the apartment will be allowed. He has an expanded septic system design done by Lavelle Associates, but it can't be installed until the bank funds the transaction. He asked if the Special Exception can be made conditionally. The Board briefly discussed their process and explained that a Special Exception is given "by right" once all elements "a through k" are met. Mr. Waters stated that the bank is taking the conservative approach by looking for the Town's verification that the unit can exist so the bank can count it as income for the Buyer and thereby be able to fund the mortgage. The Board continued to discuss that the septic needs to be State approved and installed, and that all ownership issues of who owns the property and who resides in the Unit need to be resolved. Mr. Waters reiterated that Mrs. Waters is now the owner, but that Ms. Lombardi will be in the future, and that Mrs. Waters would then become the Unit

occupant. He also stated that the Unit has been in place since before his family bought the property in 1984. Mr. Riehl suggested the Board go through the criteria to see if they would be comfortable issuing a conditional approval. They also reviewed the drawing Mr. Waters presented so they could ascertain if the unit met the 750 square foot requirement. The house measures 24 x 48, and it is a split level. His drawing shows the lower level where the Unit is. There is common access to the front hallway and door. There is a garage in part of the lower level, as well as a common laundry area and the mechanical area for heating unit and fuel storage. The Unit kitchen is to the left, then the shared laundry and the unit bath, then on the right the bedroom, and in the front the living room. Mr. Saba said he wasn't sure it was less than 750 square feet, and that discussion continued. The Board then proceeded to go through the criteria a through k, noting which ones could remain as contingencies. C: deeds need to show final ownership; D: home must be owner occupied; H: size under 750 square feet must be verified by Building Inspector; I: Building Inspections must be completed; J: the septic must be installed to meet flow requirements; and K: the Unit must be occupied by recognized family member, to be shown on recorded Deed Addendum. Mr. Riehl asked for a motion. Glen Saba made the motion to conditionally approve the Special Exception with all the above noted contingencies; motion seconded by Sam Zannini. The Board voted unanimously in favor. Mr. Riehl explained that there is a 30 day appeal period. Mr. Waters asked if there is a time limit to fulfill the conditions. The Board agreed that the approval will be good for a year, or it will lapse, and voted to add this as a "sunset condition" to the Conditional Approval.

Chairman Riehl closed the Public Hearing portion of the meeting. Next he presented a letter from the NH Dpt of Safety with regards to a "Retail Vehicle Dealer" license for Mr. Waters at his home at 24 Millstream Drive. Mr. Waters explained the type of business he is engaged in, where he buys high end vehicles over the internet, and arranges subsequent sales for them the same way. Neither vehicles nor customers come to his home. If a vehicle he purchases comes to New Hampshire then it is parked at a different business location in Plaistow. He once had this license when he resided on Providence Hill, but he let that lapse. He emphasized that he has no close neighbors, no customers come to his property, and no cars are parked on his property, and there is no sign at his property. Mr. Riehl stated that it appears that under 450:5 this business is Exempt from the Home Business permitting process, and that he is inclined to sign the letter to Dept. Of Safety that Mr. Waters meets the Town requirements. He signed the letter at 9:20 PM, and Mr. Waters left the meeting.

The Board returned to their review of the Minutes of March 9, 2011, and completed their editing process.

Chairman Riehl adjourned the meeting at 9:45 PM

Hearing was adjourned at 10:10 p.m

Respectfully Submitted

Minutes transcribed from notes taken during meeting

Susan Killam

