

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

Public Hearing Meeting Town Hall
Wednesday October 10, 2012

Present: Hank Riehl, Chairman; Glenn Saba; Dick Paquin; Cathy Blash

Approval of Workshop Minutes of September 12, 2012

Motion was made by Mr. Saba to approve the minutes, Mr. Paquin seconded and they were approved.

Correspondence:

Incoming:

Outgoing:

Public Hearings– 7:30 P.M.

Marguerite Brown request for Special Exception/Home Business as specified in the Zoning Ordinance, Article IV, Section 450 to operate “Paws-N-Puddles” a dog grooming business, at property located at 4 Highland Road, Map 3 Lot 65, TR2 Zone.

Abutters List was read with the following present:

Evelyn Goldbaum

Mr. Riehl stated he was not at the last hearing and asked the applicant why she was before the Board and what was different in this application. Ms. Brown said she did not appeal the last hearing and there was only one person that was opposed to the proposal. She submitted a new application and changed some of the plans for the business. She reduced the number of dogs that she had originally planned on grooming per day and per week. There would be less noise and traffic. Mr. Riehl stated the Board did receive another letter from the same neighbor who was still in opposition to the proposal. Mr. Riehl thought this application could be interpreted as substantially the same application and that it was denied. He asked the Board if this was the same concept as getting two bites of the apple. Mr. Saba stated the Board went through the criteria for a Special Exception and criteria F did not pass due to the Board agreeing there was a potential for that many dogs being in the same environment at the same time could pose a nuisance to the neighborhood. Mr. Paquin concurred and said that because the owner already owned two dogs and the neighbor across the street had voiced complaints about their excessive barking, bringing additional dogs to the property would deny the neighbors of a healthy and enjoyable environment.

Mrs. Brown brought her neighbor, Mrs. Goldbaum, who is represented as the most affected by any dogs barking, etc., and she is not opposed to this business. Mrs. Brown believed the Board was confusing the facts and that not all eight dogs would be there at the same time. People would be dropping off and then pick up the dog when it is ready and the next dog would be dropped off. This is not intended to be any type of boarding kennel. By having a maximum of 4 dogs a day, this is all done during daylight hours when most people are gone to work. She does not intend to have any dogs past 5:00 pm because she has children she needs to be available for. There probably won't even be dogs there every day but more than likely only a couple of days a week to start. She does not plan on advertising and this is going to be a word of mouth business and catering to mostly local residents. Mrs. Brown said that the neighbor who is complaining against this is hardly ever home and spends most of her time at the beach where she owns another home. Mrs. Brown also believed there was a misunderstanding on how the layout of the house was going to work and so she brought photos. Mr. Riehl said he did not want to go through another application until the Board determined whether this should be heard again. After more discussion regarding traffic and noise the Board came to the conclusion not to hear the application based on the fact that the applicant would be getting another chance at substantially the same application. The applicant should have appealed the prior hearing.

Motion to deny the request for a hearing was made by Mr. Saba because the application was not substantially different than the original. The applicant did not appeal the first ruling, but rather reapplied. Mr. Paquin seconded the motion and it was approved 3-1.

Public Hearings - 7:30 P.M.

Fotios and Vene Giannopoulos, Sparta RT, LLC, (dba Atkinson House of Pizza) request for Variance from Article IV Section 470 to allow a 3 foot by 8 foot (24 Sq Ft) internally lit sign, on roof of the building, in addition to the existing 15 Sq Ft free standing sign at property located at 49-51 Island Pond Road, Map 20, Lot 5 in the CI Zone.

Abutters List was read with the following present:

There were no abutters and no applicant present

The Board did a quick review of the sign regulations under Section 470. The rules are different based on which area they are located and this application is for the CI Zone. Ms. Killam stated that she looks at the Map Lot and Card to verify the zone. Mr. Paquin stated that 470:3 required that a plan to scale must be submitted. Mr. Riehl checked the folder and there was nothing there so Ms. Killam checked the map and lot file. The applicant was requesting a 24 sq. foot sign. The applicant already has a sign and the Board thought he was at the limit for this. The application was for a variance of both the size and of having a second sign. Mr. Riehl said the Board would go through the application as there was no one present to present the case.

The Board reviewed the criteria:

1. Mr. Saba opined that the existing sign was terrible and cannot be seen from Route 111. The residential area is at least 200 feet behind this area and no signs are visible to that area. The Board reviewed the proposed dimensions and sketches. Mr. Riehl said that he thought the regulations were the regulations and sympathized that this business was set back from the road, but thought this would have been reflected in what was paid for the property or rent. He did not see why the applicant's choice to have a business in this location now warrants a variance to the sign regulations. Ms. Blash asked if that is not what the Board is there for and that is why there is a variance process. Mr. Paquin stated he would be more in favor if the applicant was going to remove one of the signs. Mr. Riehl said the applicant is not suggesting doing that and it is a request for a second sign. Mr. Saba wanted to discuss 470:10 because he did not understand what it allowed. Ms. Killam stated this zoning allowed for a directory sign in addition to each building sign. Mr. Saba asked if the applicant had a roast beef store and then a pizza store could he have two signs. The Board agreed he could. Mr. Saba gave the Dunkin Donuts signs as an example. There are no other tenants in that building yet there is the big directory sign and the individual sign. Mr. Saba thought the applicant should be able to do the same. Ms. Killam stated that under 470:10 (b) the applicant had a single business. Mr. Saba said there was a very small business base in Town and wanted to do whatever he could to help small businesses because it benefited the Town in its tax base. Mr. Paquin went back to the Dunkin Donuts example and stated that even though that lot is permitted to have additional business there is no current business permitted yet there is still a directory sign. Ms. Killam said that is permitted through the site plan approval. Mr. Paquin thought this would set a precedent if approved and Mr. Saba said that every application stood on its own merits. Mr. Riehl said he took the alternate view that the voters approved zoning requirements and thought this business was not in any type of a hardship or difficult situation that they didn't already know about when establishing the business. Mr. Saba said that every variance that came before the Board in this type of situation would not have been a surprise to the owner. Ms. Killam said that strictly reading from the application the applicant quoted Section 470 but wasn't specific about which part. Thinking about Mr. Saba comments about the CI Zone, rather than the C. When she commented on 370:9, she was in error and she thought the pertinent thing the Board needs to decide is if Section 490:10 and what the applicant asked for is a different size sign. She believed that 470:10 probably allowed him to have the second sign. Mr. Paquin read that 470:10 (b) allows one identification sign. Ms. Killam said that 470:10 (a) allows the other sign. Mr. Riehl asked if the Board could consider this a commercial park. Mr. Saba reviewed the definition and thought this would be considered a commercial park. The Board agreed and determined that a variance was not needed for a second sign. Mr. Saba thought Section 470:10 (a) and (b) applied. Mr. Paquin agreed and thought section (a) gave him the sign he already had on the property and section (b) allows the sign on his roof. Section 470:10 applied to this application and that the only

determination the Board needed to make was the size of the sign. The Board agreed. Based on the discussions the **Board agreed the criterion was met.**

2. **The Board agreed the criterion was met.**
3. **The Board agreed the criterion was met.**
4. The internally lit sign faces Route 111 and is not visible to any residential area. **The Board agreed the criterion was met.**
5. The Board agreed this business was off the road and most other businesses located in this area were directly on Route 111. **The Board agreed the criterion was met.**

Mr. Saba made a motion to approve the request under Article 470:10 (b) based on all of the criteria having been met. Ms. Blash seconded the motion and it was unanimously approved.

Public Hearings - 7:30 P.M.

Peter Smith, request for Special Exception as specified in the Zoning Ordinance Article IV Section 460, to allow Extended Family Accessory Living Unit at 57 Walker Road, Map 7 Lot 90 in the TR2 Zone.

Abutters List was read with the following present:

There were no abutters and no applicant present

The Board reviewed the sketch of the proposal and calculated the square footage of the proposed accessory. The Board was confused regarding the proposed master bedroom expansion for what appeared to be for the existing home. Mr. Saba reviewed the proposed septic plan which was not signed off and the Board did not know if it had been installed. The Board had no drawings of the existing dwelling to determine how this proposal was accessed from the main dwelling. There were no applicants present. The Board discussed their options and thought they would give the applicant an opportunity to appear at the next regularly scheduled hearing to address issues and concerns.

Mr. Paquin made a motion to continue the hearing until the next regularly scheduled hearing to afford the applicant a chance to be present at the hearing to answer questions the Board had regarding the application. The motion was seconded by Ms. Blash and unanimously approved.

Motion was made and seconded to adjourn the hearing. Mr. Riehl adjourned the hearing at 9:00 p.m.

Respectfully Submitted

Minutes transcribed from tape

Rebecca Russo