

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

**Public Hearing Meeting Town Hall**  
**Wednesday May, 2012**

Present: Glenn Saba; Sam Zannini; Dick Paquin; Victoria Czaia

**Approval of Minutes of April 11, 2012 - Deferred to next month**

Correspondence:

Incoming: Motion for Rehearing, James and Jean Foley re: Henry Corey Variance

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:

Larry and Karen Wood

Mr. Saba explained there was a letter from an abutter, Maureen Donovan who was opposed to the proposal because of barking dogs, traffic and that other businesses of these types may go into the neighborhood. Mr. Saba read the letter into the record.

Mrs. Brown explained that she does have two dogs of her own that are allowed out into the yard. They have an electronic fence so the dogs have a large area to run around in. She plans on grooming up to eight dogs a day but that is the very maximum she would do. She does not expect to have that type of volume maybe ever, but if it did get to that point she would look for retail space. This is something she envisions doing part time for supplemental income. She explained that the dogs would be brought into the space via a backyard patio area which leads into the basement where the home business will be located. The percentage of space utilized by the home business will be less than 10%. There is no waiting room. Mrs. Brown addressed the concerns of Ms. Donovan by stating that her two dogs do bark, as they are animals and she tries to be aware of that. If they bark she goes to see why and will bring them in the house. She is not sure what time of day Ms. Donovan supposedly heard the barking dogs because Ms. Donovan is never at home and has a second residence. Mrs. Brown stated that her dogs would be inside the house when she had an appointment with a dog. There would be no interaction between the dogs coming for grooming and her dogs. She does not have any plans to have a sign outside, maybe just one of those little garden flags. She wants to keep the esthetic value of the neighborhood. She does not want a retail look. This will be a word-of-mouth business and by appointment only. This is something to help start a business and she believed a comfortable level would be three to four dogs a day. She is surprised by Ms. Donovan’s letter because she spoke to her about it and Mrs. Donovan did not seem to have any concerns or issues.

Karen Wood expressed concerns about the traffic, property values and other businesses that might be allowed into the neighborhood.

Mr. Saba explained that there are certain criteria that all have to be met. If they are met the home business is approved and if not it is denied.

Victoria asked how many dogs could be present on the premises at the same time including her own dogs. Mrs. Brown said there could be 5 dogs, including her own 2. Mrs. Brown said her dogs are crated part of the time and would be so if a client were bringing their dog in.

Mr. Paquin asked how long each dog would stay there. Mrs. Brown said this was not intended to be a boarding facility or daycare. She intends to wash the dog, groom it and call the client when the dog is ready. A short haired dog could be in an out in 1 hour, a long hair dog could be 3 hours. They will encounter situations where a client is held up and does not come right away. There may be occasion where a client cannot get there until the end of the workday and that is why she does not intend to pack the dogs in. Mr. Paquin asked if she would have a schedule and if a dog is already booked at a certain time would she book another dog at the same time. Mrs. Brown said it would depend on the breed. She could be washing another dog while one is drying if it were a long haired dog. Mrs. Brown intends to put a half wall in the space so the dogs and clients won't intrude into the grooming space. Mr. Paquin voiced his concerns about too many dogs waiting in the same area. There will be no dogs waiting outside at any point. She will not have other dogs running around her yard. She has an electric fence for her dogs but again they will not be outside when she has clients coming. Mr. Brown stated there were not going to be all kinds of barking dogs running around their yard. This business will probably service mostly Atkinson residents. He does not believe there will be lots of clients from other towns willing to travel a great distance to have their dogs groomed. Most likely there will only be three or four dogs per day and that won't even be at the beginning. Mrs. Brown said she did not see how anyone could hear the dogs barking in the basement, or her own dogs which would be in the house. Her dogs will be outside when there are no clients scheduled and her dogs may bark because that's what they do. Mr. Saba had concerns about the number of dogs that could be there in addition to hers and the amount of potential barking. He believed this type of business as proposed would affect the neighbors close by.

The Board reviewed the criteria:

- a. The Board agreed this was met.
- b. This is a single family residence. The Board agreed this was met.
- c. There are no employees, only her. The Board agreed this was met.
- d. Based on the application as presented, the Board agreed this was met.
- e. Based on the application as presented, the Board agreed this was met. (3-1).
- f. The Board agreed there was a potential for too many dogs. The Board agreed this was not met.
- g. Mrs. Brown is the owner. The Board agreed this was met.
- h. Based on the application, the Board agreed this was met.
- i. The Board agreed this was met.
- j. The Board agreed this was met.

***Mr. Zannini made a motion to deny the request based on criteria f having not been met. Mr. Paquin seconded the motion and it was unanimously approved.***

#### **Public Hearings– 8:00 P.M.**

SEC & Associates, for Katherine Birdsall Revocable Trust, Submission of an Application to request a Wetland Variance as specified in Article IV Section 410:8 to allow construction of a single family residence 75 feet from wetland as opposed to the required 100 feet on property located on Map 9, Lot 59-1, TR2 Zone.

Abutters List was read with the following present:

Charlie Zilch representing Daniel Birdsall, Trustee; Paul Hammond

This property was approved as part of the original Birdsall development several years ago. The original proposed lot would have an approximately 750 foot driveway with two wetland stream crossings before you get to an area that could support septic system and dwelling. They would like to move the proposed dwelling closer to Birdsall Lane and eliminate almost 400 feet of driveway and the need for a second wetland crossing. The Conservation Commission voted unanimously to support this proposal and the variance because it impacts the wetland much less.

Mr. Hammond is not in favor of this proposal because it affects the view from his house. He went before the Board a few years ago and was denied a variance request for a pool, so he does not understand how this could be granted. Mr. Hammond did not believe this lot should be built on it because of the wetlands etc. Mr. Hammond believed that

as he is the existing owner of a home in Atkinson and a taxpayer who has lived there, should he not have more rights than someone who is trying to make a profit basically at his expense. Mr. Saba explained that the lot is already approved for building and the issue is whether it is better to build in the location already approved, with a 750 foot driveway and two wetlands crossings or if it should be granted a variance to shorten that length and reduce the impact to the most important wetlands. In either location the house will have somewhat of an impact on Mr. Hammond's view or the fact that there will not just be woods in the back and side of his home. The applicant is requesting a variance for multiple points around the house because the wetland surrounds the lot. The Board discussed whether there were any other locations on the lot that the dwelling could be placed. Mr. Paquin wanted to know if a restriction could be put on the lot for future subdivision. Mr. Zannini spoke in opposition about trying to limit what someone could do with their property at a future date. Sue Killam stated that zoning could change and this is a legal lot. It would not be prudent to try and limit an owner's potential future rights.

The Board reviewed the criteria:

The applicant read his application in support of the proposal.

1. Mr. Zannini said this will reduce the emergency response should it be necessary because of the shorter length of driveway. The longer driveway also creates impervious surface. Mr. Paquin believed the Conservation Commission support was key. Mr. Paquin was sympathetic to Mr. Hammond but believed this was in the public's interest. The Board agreed this was met.
2. The Board agreed this was met.
3. There is no gain to the public that would outweigh the loss to the applicant by denying this request. The Board agreed this was met.
4. Mr. Zannini does not believe that any real estate agent would say this proposal diminishes surrounding property values. He is also sympathetic to Mr. Hammond's concerns and understands, but this is a legal lot and the applicant has the right to develop it. He does not want any restrictions, such as a no cut designation placed on the approval. This is a permitted use in this area. Mr. Saba stated this lot has wetlands and nobody is supposed to be in that area cutting anyway. Mr. Paquin suggested limiting any future building or subdivision of this lot. Mr. Zannini did not agree with this. The applicant stated that there are buffer requirements in the law regarding what can be done in wetlands areas. The Board agreed this was met.
5. A.) The Board agreed this was met. B.) There are special conditions of the property because of the wetlands. This proposal affects the wetlands less than the original plan. The Board agreed this was met.

There was discussions about placing restrictions on the lot. The Board agreed this was not a wise decision and there were enough zoning and regulations in existence. They could not limit future changes in zoning.

***Mr. Zannini made a motion to approve the request as stated based on all of the criteria having been met and per Plan No. 06-1415 dated February 24, 2012 and contingent upon getting State approval to comply with WS 300. Mr. Saba seconded the motion and it was unanimously approved.***

**Public Hearings– 9:00 P.M.**

Nicholas Middleton, Submission of an Application to request a Variance from Article V Section 530 to allow for addition to garage to be setback 23 feet 10 inches (6 foot 2 inch variance) from sideline as opposed to the required 30 feet on property located at 6 Spickett Valley Drive, Map 6, Lot 81, RR2 Zone.

Abutters List was read with the following present:

Nicholas Middleton

Mr. Middleton wants a new garage because there are restrictive covenants in his neighborhood and all vehicles, boats, jet skis, etc are supposed to be garaged. The arrangement and setup of the existing house is skewed and this proposal will encroach on the sideline setback. Moving the garage forward would result in encroachment of the 50 foot front setback. He has a letter from the direct abutters, the Parkers, which state they have no objections to the proposal. The Parkers are approximately 102 feet from the property line and have 20' – 30' of trees and heavy foliage. There is no vegetation to be cleared on this property. The proposed addition will be going in an area that is already paved and used for parking. Mr. Zannini asked how many garages total there would be. Mr. Middleton stated the existing home has a three car garage and the proposal is for 2 additional. Mr. Middleton said he currently

owns 4 cars and recreational vehicles as well. There is a significant grade change on the other side of the house. Mr. Paquin asked if this was going to be tied into the existing garage. Mr. Middleton said it would be tied to the existing house. He is an architect by trade and is sensitive to neighborhood designs and impacts of buildings.

The Board reviewed the criteria

Mr. Middleton read the application

1. The Board agreed this was met as stated.
2. There is no overcrowding etc. The Board agreed this was met as stated.
3. Mr. Paquin asked if the garage could be shorter but since the neighbor had no objections he agreed this was reasonable. Mr. Saba said there was already impervious material in this area and there is enough area on this property to disperse the watershed. The Board agreed this was met.
4. There is no overcrowding. The Board agreed this was met as stated.
5. A.) The Board agreed this was met, 3-1 with Mr. Zannini in opposition. B.) Mr. Zannini believed the applicant already enjoyed a three car garage and did not understand what the hardship to the property would be. The Board agreed this was met. 3-1 with Mr. Zannini in opposition. .

***Mr. Paquin made a motion to approve the request for a Variance as stated based on all of the criteria having been met. Victoria seconded and the motion and it was approved 3-1, with Mr. Zannini in opposition,***

***Motion was made and seconded to adjourn the hearing. Mr. Saba adjourned the hearing at 9:30 p.m.***

***Respectfully Submitted***

***Minutes transcribed from tape***

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***Rebecca Russo***