

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

**Public Hearing Meeting Town Hall**  
**Wednesday, May 13, 2015**

Members Present

Sam Zannini, Vice Chair  
David Farris  
Shane Keating

Others Present

Scott Silva  
Ken Walsh

Call to Order: Vice Chair Sam Zannini called the meeting to order at 7:45 PM. Vice Chair Zannini will be chairing the meeting as Mr. Saba is out.

**Public Hearing – 7:45 P.M.**

- 1) Application for Variance from Article IV Section 400:4 submitted by Ken Walsh for Scott Silva to allow a proposed garage within 10.02 feet of the sideline on property owned by Scott and Cassandra Silva located at 43 Boulder Cove Road, Map 23 Lot 77 in the RR3 Zone.**

Vice Chair Zannini informed the applicant that there was not a full board and the applicant has the option of going forward or waiting until there was a full board. The vote will have to be unanimous if the applicant moves forward at the May 13, 2015 meeting. The applicant gave the Board an updated set of plans and informed the board that he would like to move forward.

Abutters: William and Kimberly Brackett, Stephen Councilman, Jordan Bibeau, Scott and Cassandra Silva - Scott Silva present, Paul McKallagat, Town of Atkinson, Big Island Pond Corporation

Mr. Ken Walsh came before the Board to represent the owner and requested to go through the five variance criteria of RSA 674:33. There is room to place the garage 15 feet off the property line, but the hardship is, if the garage were to be placed there, it would block the house and the neighbor's view of the lake. The elevation differences would also make it difficult. The owner would also like to access underneath the garage. The spirit of the ordinance is, the distance from the road is maintained.

Vice Chair Zannini requested to discuss the application for variance before going through the criteria.

Mr. Zannini asked the size of the garage and Mr. Walsh explained it would be two bays, 24x28 feet, with one big garage door, a door to storage underneath and a loft. It will have a pitched roof and be 12 feet high. The dotted area is the septic system.

Mr. Walsh explained that the applicant is before the Board because of the shoreline issues. The well is by the water. He built the house in 1991. The existing driveway will remain and there will be a separate entrance to the garage off the road. The separate entrance will be

where there is an existing private road. It will remain pervious, probably gravel. The existing structures are 15% of the lot. The position of the building will not block the neighbor's view of the lake.

The Board discussed the grades of the garage, the road and the house. Mr. Walsh explained that he wanted to keep the grades and that the grade of the garage is only a foot or so different than the grade of the road. He would keep the garage a little higher than the road and come in at the walk level. It will not be that far above the grade of the road.

Mr. Zannini questioned why the applicant did not place the garage the required 15 feet from the property line.

Mr. Walsh explained that the applicant was before the Board because he wanted to place the garage so that the retaining wall did not need to be moved and it would not obstruct the view from the master bedroom window.

Included in the application are letters of support stating from the abutters at 45 Boulder Cove Road and 41 Boulder Cove Road stating that they approved of the placement of the garage because it would not obstruct their views of the water.

Mr. Zannini asked if the applicant had talked to the Conservation Commission. The applicant responded no.

The Board discussed other places on the lot where the garage could possibly be placed. Mr. Zannini asked why the applicant did not place the garage closer to the street. The applicant responded that he wanted to park his boat trailer in the gravel area in front of the garage, and also, that it would still obstruct the view. Also, it would allow room for the applicant to store his boat. Also, if the garage were moved over and forward, it would still block the view from the house.

The Board discussed where the structures on Map 23, Lot 78, 45 Boulder Cove Rd. owned by Paul McKallagat were located.

Vice Chair Zannini asked the Board if there were more questions. There were none. No members of the public were present.

1) Granting a variance would not be contrary to the public interest because:

a. Granting would situate the structure out of direct neighborhood line of site continuing the neighborhood esthetics and not block neighbors views. It would also add tax revenue to the Town

b. Maintain across the street neighbors view to the pond

Discussion: Mr. Farris and Mr. Keating agreed. Mr. Zannini read aloud the text of the regulation and stated he did not think the variance would be contrary to the public interest.

**The Atkinson Zoning Board of Adjustment agreed unanimously that this was met based on the application and the discussions as presented.**

2) The spirit of the ordinance is observed.

a. We have maintained the required distance from the road

Discussion: There is more of a distance from the street and the Town allows for variances. Mr. Zannini read the definition. Mr. Keating stated it seemed reasonable.

**The Atkinson Zoning Board of Adjustment agreed unanimously that this was met based on the application and the discussions as presented.**

3) Granting the variance will do substantial justice.

a. Prevent the need to change the lay of the land

b. Would allow the garage structure to limit it's obstruction in front of the house

c. Would prevent rerouting the main entry way to the house

d. Would allow for an improved view from the ONLY master bedroom window, assuring property value remained.

Discussion: Mr. Zannini explained that any loss to the individual would not be outweighed by public interest. Mr. Farris did not see that it would affect the public interest, and according to letters from the neighbors, another location would not be better.

**The Atkinson Zoning Board of Adjustment agreed unanimously that this was met based on the application and the discussions as presented.**

4) The values of surrounding properties will not be diminished.

a. The proposal continues to allow for 10 feet of natural landscape between structure and property line.

b. The garage structure will resemble the house assuring a complete esthetically pleasing property.

Discussion: The applicant thinks the proposed garage will enhance the neighborhood rather than detracting from it.

**The Atkinson Zoning Board of Adjustment agreed unanimously that this was met based on the application and the discussions as presented.**

5) Owing to the special condition of the property that distinguishes it from other properties in the area, denial of the variance would result in unnecessary hardship to the owner because:

A) No fair and substantial relationship exists between the general public purpose provision of the ordinance and specific application to the property.

i. The lot is only .33 acres with 75 feet of water frontage. There is limited space to build a garage and limit impact to shoreline protection. Proposed location allows for future access to septic system and minimizes rework of existing lay of land.

B) The proposed use is a reasonable one.

i. The property currently has no garage and stores automobiles along the road side and grass areas, which is not esthetically pleasing.

Discussion: Mr. Keating stated that criteria 5B definitely makes sense. The other members of the Board present agreed. Mr. Zannini asked for comment on criteria 5A).

Mr. Zannini asked what made the property different from other properties in the area. Mr. Walsh explained that it is not.

Mr. Zannini asked to discuss the size of the lot and stated that he did not understand why the garage could not be closer to the street and more in front of the house. The Board discussed whether moving the garage would meet the zoning requirements of 15 feet from the street. Mr. Silva explained that one reason the garage is proposed to be where it is, is it is in line with the neighbor's garage. Mr. Zannini has a hard time understanding the hardship. The Board discussed where else the garage could be placed. Mr. Silva informed the Board that when he discussed the garage with the neighbors, it would be lined up with the neighbor's garage. The Board agreed that the hardship is if the garage were elsewhere on the property it would block the view from the house and would also block the neighbor's view, which would be a hardship for the neighbors.

Vote on criteria A and B together.

**The Atkinson Zoning Board of Adjustment agreed unanimously that this was met based on the application and the discussions as presented.**

Vice Chair Zannini asked if there were other questions. There were none. Vice Chair Zannini closed the public hearing and requested a motion.

**Member Shane Keating made a motion to allow the Application for Variance from Article IV Section 400:4 submitted by Ken Walsh for Scott Silva to allow a proposed garage within 10.02 feet of the sideline on property owned by Scott and Cassandra Silva located at 43 Boulder Cove Road, Map 23 Lot 77 in the RR3 Zone. Member David Farris seconded the motion. All members of the Atkinson Zoning Board present voted in favor. Vote: 3/0.**

There is a thirty day appeal. And Vice Chair Zannini reminded the applicant they would need Shoreland Protection approvals form DES.

Other Business: Vice Chair Zannini asked if there was any other business. There was none.

Vice Chair Zannini requested a motion to adjourn.

**Member Shane Keating made a motion to adjourn the Wednesday, June 13, 2014 meeting of the Atkinson Zoning Board of Adjustment at 8:20 PM. Member Dave Farris seconded the motion. All members present voted in favor to adjourn. Vote: 3/0.**