

ATKINSON ZONING BOARD OF ADJUSTMENT
21 Academy Avenue
Atkinson, New Hampshire 03811
Public Hearing Meeting Town Hall
Wednesday, March 9, 2016

Members Present

Glenn Saba, Chair
Sam Zannini, Vice Chair
Shane Keating
David Farris

Others Present

Kevin Camm
Adam Davies

Work Shop 7:00 PM

Call to Order: Chair Glenn Saba called the meeting to order at 7:00 PM.

Minutes: January 13, 2016

The Atkinson Zoning Board of Adjustment reviewed the minutes of the January 13, 2016 meeting.

Member Shane Keating made a motion to approve the minutes of the January 13, 2016 meeting as amended. The motion was seconded by Vice Chair Zannini. Three members of the Atkinson Zoning Board of Adjustment voted in favor. David Farris abstained. Vote: 3/0/1.

Other Business: Chair Saba passed out new Zoning Board Regulation books.

Correspondence: See below.

Public Hearing – 7:30 P.M.: Chair Saba opened the public hearing of the Atkinson Board of Adjustment at 7:30 PM, March 9, 2016 and announced that the Zoning Board is looking for members.

1) Application for Variance from Article IV Section 400:4 submitted by Kevin Camm for Adam and Robin Davies, to allow construction of a structure within 6.5 feet of a lot line where 15 feet is required on property located at 5 Ledge Road, Map 22 Lot 104 in the RR3 zone.

Abutters: Marjorie Venditti, Adam and Robin Davies (present), Kathleen Quinn, Lloyd McNeil, Samantha Stenbeck, Kevin Koinsky, Edward Colby, Carol Parmesano (present), Michael and Leslie Cronin

Discussion: Kevin Camm became before the Board to present the variance proposal to the Board. Chair Saba informed the audience he has seen the property. The Board looked at the plans. Mr. Camm explained that the property is at the top of a small hill and overlooks the lake.

The applicant is requesting an 8.5 foot variance from a 15 foot side line. The side line would be 6.5 feet. The applicant is proposing to set back the frontage so a frontage variance is not necessary and the set back will provide some parking prior to going into the garage. There is currently a large stairway at the back of the lot. The applicant informed the Board that by building the proposed foundation, the backyard will be graded and the stairway will be removed. Chair Saba asked what will happen to the existing retaining wall along the lot line in the back. The applicant explained that he is proposing to remove the wall where the steps are and replace it with the proposed garage foundation. The existing retaining wall will be reconstructed and continue to the adjoining lot. Currently, the retaining wall is approximately 8 feet. The backyard will go to the proposed foundation.

The existing retaining wall is right on the property line with Lot 7. The applicant is requesting to excavate towards the back. Instead of the stairs and retaining wall, the applicant is proposing a concrete wall at the back of the garage. Mr. Camm explained that Sheet 1A.0 shows where the proposed retaining wall will tie into the corner of the garage.

Vice Chair Zannini asked about the existing carport. Mr. Davies explained that it is 12-14 feet wide and 14-16 feet deep and is on the property line. Drawing A 3.0X shows the existing carport. It is a canvas structure with a steel frame.

Next the Board discussed the well. The applicant explained that there is a dug well with a jet pump that provides for 3 properties.

Mr. Camm explained that there is an existing relatively new, State approved septic system. The proposed structure will be a two stall garage with a finished space above. The applicant plans to build a deck area partially covered by roof. The elevation of the proposed structure is approximately 17 feet to the top. The roof of the proposed structure will line up with the existing roof. The new roof area singles will match the existing shingles. The intent is to provide a porch area on that surface. The applicant has emailed copies of the drawings to the Fire Chief. He has responded confirming receipt but has not communicated anything to the applicant. Watershed issues will not change.

Chair Saba opened the meeting to public participation.

Carol Parmesano from 3 Ledge Road stated that as an abutter on the opposite side, she has no objections to the proposed structure. Ms. Parmesano asked if any views would be blocked and the applicant explained that no views will be obstructed.

Chair Saba closed the meeting to public participation.

The Board continued to review the application. The Board discussed lot sizes. The development was built in 1953 before the current zoning regulations and the lots are fairly small. The applicant explained that most of the year round homes have garages. There will be no increase in sewage loading due to the proposed structure. The applicant has not thought about plumbing except the possibility of a slop sink in the proposed garage.

Chair Saba asked if there were any other questions. There were none.

The Atkinson Zoning Board of Adjustment went through the requirements for a variance from Article IV, Section 404:4.

1) The variance would not be contrary to the public interest because;

Residential use is allowed and expected. There is no proposed change in use. Adding a garage and bonus residential space is also permitted use. Relief will allow the owner to utilize the property in a manner consistent with the uses in the Zone. Safe, adequate and convenient parking will be provided to the property and the building.

Discussion: There are no septic issues or water. The only issue is density. The residents in lot 105 were given a copy of the plans and they stated that it will be better than the current carport. They have received a copy of the notice of the meeting.

All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would not be contrary to the public interest. Vote: 4/0/0.

2) The spirit of the ordinance is observed because;

The use is allowed in the zone, there will be no increase in the number of bedrooms and no increase of sewage loading. Convenient and adequate parking in the garage and front yard will be provided. The relief will allow for an orderly expansion of this nonconforming lot.

Discussion: Chair Saba asked if there was a trailer in the front. The applicant stated no, their Yukon is parked on the side and is bright yellow.

All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would observe the spirit of the ordinance. Vote: 4/0/0.

3) Granting the variance will do substantial justice because;

The owner gets to improve the property and enjoy modern, convenient additional space. The residential use is maintained and more function is provided.

Discussion: Chair Saba stated that the loss to the applicant will not be outweighed by any gain to the public if the variance is allowed. The applicant informed the Board that the views will not be obstructed and the existing carport will be taken out. A snow blower and a generator as well as the trash barrels are outside and if the garage is allowed, then those items will be stored inside. The Board agreed that there is no gain to the general public by denying the variance.

All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would do substantial justice. Vote: 4/0/0.

4) The values of surrounding properties are not diminished;

The new addition will be built to new codes and with new materials. A new, attractive structure will increase surrounding values. There is no reduction of views that affect the neighbors. The lot will be cleaned up to a significant standard.

Discussion: Chair Saba asked about the view. Mr. Camm invited the Board to look at one drawing with a perspective of Ledge Road. The residents at 95 Ledge Road are down from the current structure; however they cannot currently see the water. All other lots are going towards the water. All abutters have been noticed and there have been no objections.

All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would not diminish the values of surrounding properties. Vote: 4/0/0.

5) Owing to special conditions of the property that distinguishes it from other properties in the area denial of the variance would result in unnecessary hardship because;

(a) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property;

The old subdivision as established in the 1950s did not require setbacks. Existing conditions on this lot coupled with the subsequent zoning restrictions prohibit expansion without relief from this Board. Additional land is not available. The ordinance was adopted to establish density, frontage depth, setbacks and use. However, this neighborhood evolved prior to that time.

Discussion: Chair Saba informed the Board that once the provisions of the ordinance have been established, the property owner needs to establish that, because of the special conditions of the property, the application of the ordinance provision to his property would not advance the purposes of the ordinance provision in any fair and substantial way. The applicant has made a good case that there was no zoning when the subdivision was built out and any type of expansion would require relief from the Board.

All members of the Atkinson Zoning Board of Adjustment present agreed that the denial of the variance would result in unnecessary hardship. Vote: 4/0/0.

(b) The proposed use is a reasonable one because;

The owner will improve the property to today's codes and standards; enhance the neighborhood and get more enjoyment of the garage and the additional living space. There is no expansion of septic loading, residential use is and will be maintained without requiring anymore municipal services.

Discussion: The Board needs to subjectively say that the use that is proposed would not affect neighbors' properties and municipality goals in general.

All members of the Atkinson Zoning Board of Adjustment present agreed that the proposed use is a reasonable one. Vote: 4/0/0.

Chair Saba stated that all conditions have been met and requested a motion. Vice Chair Zannini agreed to make a motion but reminded the applicant that the Fire Chief needed to approve the plans.

Vice Chair Sam Zannini made a motion to approve the Application for Variance from Article IV Section 400:4 submitted by Kevin Camm for Adam and Robin Davies, to allow construction of a structure which is a garage with living area above within 6.5 feet of a lot line, where 15 feet is required which is a variance of 8.5 feet on property located at 5 Ledge Road, Map 22 Lot 104 in the RR3 zone. On condition that the Fire Chief approves the plans. Member Dave Farris seconded the motion.

All Members of the Atkinson Zoning Board of Adjustment voted in favor. Vote: 4/0/0.

Chair Saba informed the applicant that there is a 30 day appeal period.

Vice Chair Sam Zannini made a motion to adjourn the March 9, 2016 meeting of the Town of Atkinson Zoning Board of Adjustment at 9:00 PM. The motion was seconded by Member Shane Keating. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.

The Wednesday, March 9, 2016 meeting of the Atkinson Zoning Board of Adjustment was adjourned at 9:00 P.M. The next meeting of the Atkinson Zoning Board of Adjustment will be April 13, 2016.