

**ATKINSON ZONING BOARD OF ADJUSTMENT  
21 Academy Avenue  
Atkinson, New Hampshire 03811  
Public Hearing Meeting Town Hall  
Wednesday, April 13, 2016**

Members Present

Glenn Saba, Chair  
Sam Zannini, Vice Chair  
David Farris

Others Present

Darryl Condon

**Work Shop 7:00 PM**

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

Minutes: March 9, 2016

The Atkinson Zoning Board of Adjustment reviewed the minutes of the March 9, 2016 meeting.

**Vice Chair Zannini made a motion to approve the minutes of the March 9, 2016 meeting as amended. The motion was seconded by Member David Farris. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 3/0/0.**

Other Business:

Correspondence:

**Public Hearing – 7:30 P.M.**: Chair Saba opened the public hearing of the Atkinson Zoning Board of Adjustment at 7:33 PM, April 13, 2016. Chair Saba informed the public that the Zoning Board of Adjustment is looking for members.

**1) Application for Variance from Article IV Section 400:4 submitted by Darryl Condon, to allow construction of a structure within 9 feet of a lot line where 15 feet is required on property located at 5 Palmer Rd Map 22 Lot 86 in the RR3 zone.**

Abutters: Alan P. and Heather Hills; Michael P. Mullaney, Erick Derico, Thomas and Gayle Spellman (present), Darryl Condon (present), Morris Atkinson Realty Trust, Charles and Michael Morris, Trustees, Robert and Giselle Johnson, Susan M. Thibeault, Marjorie Venditti

Chair Saba informed the applicant that there were only three Board members present and the decision would have to be unanimous. Chair Saba also informed the applicant that he has the option to continue or to wait for the next Board meeting. The applicant agreed to continue.

Discussion: Mr. Darryl Condon appeared before the Board and explained that his plan is to put a farmer's porch on his house across the front which meets the required 30 foot setback. It will wrap around the side where the stairs and a four foot landing are currently. The setback on the side will be the same as the current setback. The purpose of the proposed structure is to allow the applicant to enter the home from the driveway through the farmers' porch. Mr. Condon showed the Board drawings of the proposed porch and pictures of the house. The applicant showed the Board where the current stairs and landing are located on the side of the house. Mr. Condon explained that the proposed structure would not extend farther than the current structures. The Board looked at the pictures and the plans and asked the applicant to show where the proposed structure would be. The applicant explained that the current stairs and landing on the side of the house would be taken out and the proposed structure would wrap around from the front to where they are currently located. The walkway would remain.

Chair Saba asked the Board if there were any more questions before he opened the discussion to public participation. The Board had no further questions.

Chair Saba opened the meeting to public participation.

Mrs. Gail Spellman appeared before the Board to state that she owns the property next to 5 Palmer Avenue with her son. Her property abuts the side of the applicant's property where the proposed structure would be built. She informed the Board that she is fine with the proposed farmers' porch.

Chair Saba asked the public if there were further questions. There were none. Chair Saba closed the meeting to public participation.

Chair Saba asked the applicant if there were anything else he would like to add. He stated no. Chair Saba explained the procedure.

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

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

It will not encroach on the neighboring properties any further than the structure already does.

Discussion: Chair Saba asked for input from the Board. Member Farris asked to clarify that the existing stairs and landing are already an encroachment on the side setback. The Board and the applicant agreed.

**All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would not be contrary to the public interest. Vote: 3/0/0. The vote is unanimous.**

2) The spirit of the ordinance is observed because;

It helps to keep residents from encroaching onto their neighboring properties.

Chair Saba explained that the spirit of the ordinance means that the setback regulations are to prevent overcrowding.

Discussion: The applicant explained that the structure would be no closer to the neighboring property line than the existing stairs and landing already are, so the spirit of the ordinance is observed. Chair Zannini asked where the septic system is and the applicant replied that it is in the back corner of the lot.

**All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would observe the spirit of the ordinance. Vote: 3/0/0. The vote is unanimous.**

3) Granting the variance will do substantial justice because;

It would allow my property to become more functional. It will also help to increase the “looks”/“beauty” of the home.

Discussion: The driveway is on the opposite end of the house and entering the house from the driveway is hazardous to the applicant and family in winter. It will allow the applicant to enter the house from the driveway through the farmers’ porch. It will increase the esthetics of the home.

Chair Saba stated that the handbook states that any loss to the applicant which is not outweighed by any gain to the general public is an injustice. The Board agreed that there would be 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: 3/0/0. The vote is unanimous.**

4) The values of surrounding properties are not diminished;

It will not encroach on the side setback any further than it does now, and will not interfere with neighboring properties in anyway.

Again, the applicant is not encroaching any farther on the side setback than what is already there. The immediate abutter is okay with the deck. It will not diminish the neighboring properties. None of the neighbors on the other side or the back will be able to see the porch. No abutting property will be diminished.

Discussion: Chair Saba agreed that the immediate abutter has stated that she does not have an issue.

**All members of the Atkinson Zoning Board of Adjustment present agreed that the variance would not diminish the values of surrounding properties. Vote: 3/0/0. The vote is unanimous.**

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;

It should not impact the general public or neighboring properties in any way.

Discussion: The applicant reiterated that he is not going any farther to the right side of the property than what is there already. Chair Saba added that most of the lots in that area were established before zoning. The conditions are unique in that way because lots are already tight. The proposed structure is only enhancing the value of the property including the community itself.

**All members of the Atkinson Zoning Board of Adjustment present agreed that the denial of the variance would result in unnecessary hardship. Vote: 3/0/0. The vote is unanimous.**

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

It will not encroach any further to the side lot line and it will not impact the neighboring properties anymore than currently. It will allow the applicant to access the house from the driveway much more conveniently and safely.

Discussion: Chair Saba explained that the applicant must establish that because of the special conditions of the property, the proposed use is reasonable.

Chair Saba stated that this is a subjective judgment and asked if there were questions from the Board. There were none.

**All members of the Atkinson Zoning Board of Adjustment present agreed that the proposed use is a reasonable one. Vote: 3/0/0. The vote is unanimous.**

Chair Saba stated that all conditions have been met and requested a motion.

**Vice Chair Sam Zannini made a motion to approve the Application for Variance from Article IV Section 400:4 submitted by Darryl Condon, to allow construction of a structure within 9 feet of a lot line where 15 feet is required on property located at 5 Palmer Road, Map 22 Lot 86 in the RR3 zone as per the application and drawings submitted. Member Dave Farris seconded the motion. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 3/0/0.**

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

**Vice Chair Sam Zannini made a motion to adjourn the April 13, 2016 meeting of the Town of Atkinson Zoning Board of Adjustment at 9:00 PM. The motion was seconded by Member David Farris. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 3/0/0.**

The Wednesday, April 13, 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 May 11, 2016.