

ATKINSON ZONING BOARD OF ADJUSTMENT
21 Academy Avenue
Atkinson, New Hampshire 03811
Public Hearing Meeting Town Hall
Wednesday, January 10, 2018

Members Present

Glenn Saba, Chair
Sam Zannini, Vice Chair
Will Stewart
David Farris

Others Present

Tim Lavelle, James Lavelle Associates
Paul Corbett

Work Shop 7:00 PM

Call to Order: Chair Glenn Saba called the meeting to order at 7:10 PM.

Other Business:

Approval of Minutes: September 13, 2017 and December 10, 2017

September 13, 2017

Member Farris made a motion to approve the minutes of the September 13, 2017 meeting as amended. The motion was seconded by Member Will Stewart. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.

December 10, 2017

The Atkinson Zoning Board of Adjustment reviewed the minutes of the December 10, 2017 meeting.

Vice Chair Sam Zannini made a motion to approve the minutes of the December 10, 2017 meeting as amended. The motion was seconded by Member Will Stewart. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.

Correspondence:

- Chair Saba read a letter from the Board of Selectmen requesting that Vice Chair Zannini sign the paperwork to renew his membership to the Zoning Board and be sworn in.
- Correspondence from the courts regarding November 16, 2016 decision of the Code Enforcement Officer. Chair Saba read the letter into the record.

Public Hearing – 7:30 P.M. - Chair Saba opened the public hearing at 7:30 PM January 10, 2018. Chair Saba, Vice Chair Zannini, Member Will Stewart and Member Dave Farris are present.

- 1. Application for Variance from Article IV 410:8a submitted by James Lavelle Assoc. for COR-A-Trust, Paul Corbett, Trustee, to permit the construction of a dwelling 50' from wetland where 100' is required (50' variance) and also a**

Variance from Article V Section 530:d to permit the construction of same dwelling 38' from the road where 50' is required (12' variance) on property located on Maple Ave, Map 9 Lot 29 in the RR2 Zone.

Abutters: Gary and Maureen Whitley, Sheree Melo (present), Peter and Erica Corbett, 13 Maple Avenue Realty Trust, Vincent and Francis Fiorella, Barbara and Gene Zaba, Dennis and Lois Powers (present) and COR-A-Trust, (present) Paul and Sheila Corbett (present).

Mr. Lavelle appeared before the Board to represent the applicant and gave the ZBA a brief overview. Mr. Lavelle explained that it is an 8.35-acre lot created in 1957. Mr. Lavelle met with the Conservation Commission and the Conservation Commission requested a soils analysis from a soils scientist, also a drainage plan, and how the runoff from the structure would be treated prior to flowing into the wetlands. The lot slopes towards the wetlands from the street. It will be a small home with the septic in the front. The septic system meets all state and local requirements. The proposed home will be 50 feet from the wetland and 38 feet from the street. The next dwelling to the north is 27 feet from the street, so the proposed dwelling is in keeping with the neighborhood. Mr. Lavelle explained that he did not write a letter of continuance because the Conservation Commission asked for more information two days prior to the ZBA meeting and because he wanted to ask if the ZBA would like more information.

Chair Saba asked about the septic setback. Mr. Lavelle explained that there is a 100-foot setback from the wetland for the septic and a 10-foot setback from all lot lines. The State setback requirement is 75 feet, but the application is for a variance from Town setback requirements. Chair Saba stated that the plan does not show a well on the abutters lot. Mr. Lavelle stated that the lot is on well but it is far enough away. The wells across the street are also far enough away from the septic. Both State and Town require a 75-foot setback from the setback to wells.

The Zoning Board did not have any comments.

Chair Saba opened the hearing to the public.

Mr. Melo, speaking for his daughter of 25 Maple Avenue, is opposed. Primarily because the lot is less than half an acre which is not just a minor violation of wetlands requirements but more than a 50% reduction. If this were approved, it would make conservation laws a joke. The wetland area has a tremendous amount of wildlife. Mr. Melo cannot imagine that anything can be built without polluting the pond. They will be at the next Conservation Commission meeting. The assessment on the entire property, of which 7 plus is under water has been assessed by the Town at \$11,000. If this is a valid building lot, the assessment would be much higher. The application states the property is 8.5 acres but the buildable area is really only about half an acre. Also, according to the map, it is impossible to walk across the property from the building lot without walking on the abutting lot or in the street. The land is not contiguous. There is a half-acre of the property along Maple Avenue and another 1.5 acres on the other side of the pond, therefore it should not be considered a valid building lot.

Chair Saba asked if the lot met the upland zoning requirement. Mr. Lavelle responded no, but it is an existing lot that was established in 1957. Soil zonings do not have to be met because it was created prior to soil zonings.

Mrs. Lois Powers, 18 Maple Avenue, informed the Board that several years back a neighbor on Little Robb created an unapproved pond which has caused flooding on Little Robb Road.

Fortunately, the current owner takes care of the pond. Her house is located between the pond on Little Robb and the pond on the application. Her lot has gone from fairly dry to fairly wet. Sometimes the pond gets plugged up and the pond gets really big so whatever land around the pond shrinks. She is concerned that the proposed building does not affect the flow of water.

James Foley asked why the illegal pond still exists. Mr. Lavelle stated that Blunt Pond is not illegal. Ms. Powers reiterated that the pond on the proposed lot gets plugged up all the time because Maple Avenue runs past it. The water level changes all the time.

Chair Saba requested Mr. Lavelle comment on what was being discussed.

Mr. Lavelle informed the Board that the information Ms. Powers gave is what the Conservation Commission required.

Mr. Lavelle requested a continuance. Chair Saba requested a record of the high-water mark on Blunts Pond. There are no grades shown on the plan. Blunts Pond is shown together with about 40 feet of an emergent wetland. Mr. Lavelle stated he would speak to the Road Agent regarding the high-water mark on Blunts Pond and run the elevations to the lot. There have been no septic tests. There is about a 36-inch water table.

Member Farris asked about the elevation difference between the water and the road and the approximate elevation to the building level and the high-water mark. Mr. Lavelle responded that he has the information but not with him. He believes it is eight feet from the street to the water.

Chair Saba stated that there is a request for continuation and asked for discussion. There was no more discussion.

Chair Saba informed the applicant that the Board would like to see in addition to what was requested by the Conservation Commission, topographic elevations and a drainage plan and/or mitigation. Mr. Lavelle will show the same plan to the Conservation Commission and add the information from the discussion of the present Board meeting.

Mr. Lavelle asked the Zoning Board of Adjustment if it would like a site walk.

Vice Chair Zannini made a motion to grant continuance of the Application for Variance from Article IV 410:8a submitted by James Lavelle Assoc. for COR-A-Trust, Paul Corbett, Trustee, to permit the construction of a dwelling 50' from wetland where 100' is required (50' variance) and also a Variance from Article V Section 530:d to permit the construction of same dwelling 38' from the road where 50' is required (12' variance) on property located on Maple Ave, Map 9 Lot 29 in the RR2 Zone to February 14, 2018. Member Farris seconded the motion. All members of the Atkinson Board of Zoning Adjustment voted in favor. Vote: 4/0/0.

Chair Saba opened the second public hearing.

2) Application for Variance from Article IV 410:8a submitted by James Lavelle Assoc. for Budzyna 2016 Trust, Gail Budzyna, Trustee, to permit the construction of an addition to an existing dwelling 37' from wetland where 100' is required (73' variance) on property located at 15 Hemlock Heights Rd, Map 22, Lots 9-1 & 11 in the RR3 Zone.

Abutters: Susan Collette, JJ Realty Trust, James and Jean Foley, Trustees (present), the Dorothy Goldstein Living Trust, Budzyna 2016 Trust, Budzyna, Gail, Trustee (present), Carol Davis, Marjorie Vendetti, Robert A. Listreau, Lloyd McNeil c/o Linda Burke

Mr. Tim Lavelle appeared before the Zoning Board of Adjustment to represent the applicant. The applicant met with the Conservation Commission. The major concern at the meeting was grading around the house. There are issues with ponding in front of the lot after the storm and the Conservation Commission is concerned that the proposed addition does not exacerbate the problem. There are two existing lots of record which will be combined, Lot 9-1 and Lot 11. The proposed addition will be a three-car garage and additional living space to accommodate the family. The wetlands variance requested is in the rear and is on the Foley property. The wetland has been mapped by Bruce Gilday Associates. It is small. The property looks like it is very close to Big Island Pond on the tax maps, but it is not. It is not within the NH Shore lands protection district. It is about 300-350 feet from Big Island Pond. The Conservation Commission wanted more information on grading. Mr. Lavelle explained that the addition is designed so not much grading is required. It is a garage under in the front with living space above.

Discussion: Vice Chair Zannini asked if the pond was in back. Mr. Lavelle explained that the pond does not come up behind the house. There is no lake access what so ever. The applicant explained that there is 1.1 or so acres of wet marshland which was once a hay field before the dam was built and combined the three ponds. It is a class four wetland. Deep water is 300 to 400 feet from the dwelling.

Chair Saba asked if the septic system would be the same. Mr. Lavelle replied that the septic will be the same. Chair Saba asked if there were any additional bedrooms. Mr. Lavelle replied "none". Mr. Lavelle also explained that there will be additional plumbing. There will be an additional bathroom in the addition. He does not know how the applicant will run the plumbing back to the house. The applicant explained that there are two wells on the property. The newer well will be capped and the old well will be reopened. The shed will be taken out and moved. The existing driveway will be eliminated and the new driveway will be in front of the proposed addition. The new driveway will be shown on the revised plan. The applicant stated that there will be a side grass yard. There have been issues with drainage and drains were installed in the 1990's but no formal easement was granted.

Chair Saba opened the meeting to the public.

Mr. James Foley, 5 Chase Island Road, explained that the drainage was put in by the Road Agent in 2004 and is shown on the plan at the four corners. There was probably an issue with flooding. The Road Agent had put in a new drain pipe. He does not know where the pipe goes along the property or if it angles near the garage, but it comes along Chase Island and cuts over and pops out behind the shed where the old well head is, and drains down into the lake. Chair Saba asked Mr. Lavelle to locate the pipe for the Board. Mr. Lavelle stated he will ask the Road Agent.

Mr. Lavelle also informed the Board that he looked for a deeded easement to the Town for drains but could not find one.

The lots still need to be merged and Mr. Lavelle will send a letter to the Planning Office.

Mr. Lavelle requested a continuance and asked if the ZBA would like more information. The Conservation Commission asked about drainage. Chair Saba recommended the applicant test the well that the applicant proposes to reopen, also show the driveway and the drainage on the plan.

Vice Chair Zannini made a motion to grant the request to continue the Application for Variance from Article IV 410:8a submitted by James Lavelle Assoc. for Budzyna 2016 Trust, Gail Budzyna, Trustee, to permit the construction of an addition to an existing dwelling 37' from wetland where 100' is required (73' variance) on property located at 15 Hemlock Heights Rd, Map 22, Lots 9-1 & 11 in the RR3 Zone. Member Farris seconded the motion. All members of the Atkinson Zoning Board of Adjustment voted in favor: Vote: 4/0/0.

Member Farris made a motion to close the January 10, 2018 of the Atkinson Zoning Board of Adjustment meeting to the public at 8:09 PM. Vice Chair Zannini seconded the motion. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.

Vice Chair Zannini made a motion to adjourn the January 10, 2018 meeting of the Town of Atkinson Zoning Board of Adjustment at 8:34 PM. The motion was seconded by Member Will Stewart. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.