

ATKINSON ZONING BOARD OF ADJUSTMENT

21 Academy Avenue

Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall

Wednesday, February 10, 2021

Members Present

Glenn Saba, Chair

Bob Connors, Vice Chair

Kevin Wade

Arthur Leondires

Scott Sullivan

Others Present

Susan Coppeta, Planning Administrator

Karen Wemmelmann, Recorder

Workshop 7:00 PM

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

Chair Saba read a statement into the minutes regarding electronic meetings. This meeting will be conducted via Zoom which is authorized pursuant to the Governor's emergency order. The public has access to listen and/or to participate by telephone or by Zoom. If the public is unable to access the meeting, it will be adjourned and rescheduled. All votes will be taken by roll call vote.

Roll Call Attendance: Chair Saba, alone; Vice Chair Connors, alone; Member Wade, alone; Member Leondires, alone; and Member Sullivan, alone. All members of the Atkinson Zoning Board of Adjustment present stated they were present.

Approval of Minutes: January 13, 2021

The Atkinson Board of Zoning and Adjustment reviewed the February 10, 2021 minutes, and made corrections and amendments.

Member Sullivan made a motion to approve the minutes of the January 13, 2021 meeting as amended. The motion was seconded by Vice Chair Connors. Roll Call: Member Leondires, yes; Vice Chair Connors, yes; Member Wade, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustment present voted in favor to approve the minutes of the January 13, 2021 meeting as amended. Vote: 5/0/0. The vote is unanimous.

Other Business:

Chair Saba informed the Board and the public that the Planning and Zoning Administrator has received several emails from Christine Cornelius. The Board voted on this matter in November or October. There was an outstanding matter, the Code Enforcement Officer and the Fire Inspector went out to observe the property and the matter was resolved. Vice Chair Connors

stated that it is his opinion that in her application for administrative appeal, Ms. Cornelius' issue is encroachment on the buffer zone. He has been by several times and has not seen anything. Chair Saba asked if any Board members believed that the hearing was still open. The Board members agreed that it was not. Chair Saba stated for the record that the appeal period has expired and the matter is closed. If there is another complaint, a proper filing must take place.

Chair Saba asked if there were any other issues the Board would like to entertain. There were none.

Correspondence: none

Public Hearing – 7:30 P.M.

Chair Saba opened the public hearing at 7:30 PM, February 10, 2021.

- 1. Application for Variance from Article IV Section 400:4 submitted by Kathleen Schofield to allow construction of a sunroom 22.8' from the front setback (7.2' variance) where 30' is required on property located at 9 Hemlock Shore Dr. Map 22 Lot 112 in the RR3 Zone.**

Abutters:

Morris, Michael P. and Morris, Jessica A., Gagnon, Elizabeth A. Trust, Gagnon, Elizabeth A., Trustee, Nihof Family Rev. Trust, Nihof, Jerome & Sally A., TTE, Cronin, Michael S. & Cronin, Leslie N., TTE, Mist Family Trust, Merrick, Frank A. and Merrick Debra J. (present), Archer, Patricia M. and Archer, John, Fritsch, Derik and Honrado, Kimberly, Schofield, Kathleen (present), Cronin, Michael S. and Cronin Leslie N.

Chair Saba explained that the applicant is attempting to build a room 22.8 feet from the front setback. Mr. Schofield explained that the applicant would like to keep the existing retaining wall. If the proposed deck were shorter, the retaining wall would have to be reconstructed, which would cost around \$10,000. The existing deck is overhanging the retaining wall. The new deck would also go over the retaining wall so that a footing tube can be drilled into the ground and a post can be placed to support it.

Chair Saba read Regulation 400:4 for the record. Chair Saba asked if the engineer had spoken to the neighbors and Mr. Schofield informed him no, he was not aware it was necessary. He also stated that there are several houses much closer than 30 feet from the front setback.

Chair Saba opened the hearing to the public.

Deb Merrick, one of the abutters stated that she has no problem with the proposed addition. She thinks it would make the house look a lot nicer. She is in the lot right behind their house.

There were no more comments. Chair Saba closed the public hearing. Chair Saba asked the Board for comments.

Chair Saba stated he drove by, the house to the left is very close to the street and it appeared that the garage is on the right of way. Mr. Schofield agreed and stated that the proposed addition would be farther from the right of way than many other structures.

Mr. Schofield stated that the proposed addition was originally designed as a sunroom but with the added second floor, the applicant decided to propose a four season room. Mrs. Schofield's parents will be moving in with them and a four season room would give them space to have visitors.

Chair Saba requested that the applicant read the criteria. The Board will discuss if necessary, and each requirement will be voted on separately. An affirmative vote for all requirements is required for the request to pass. The applicant agreed.

Member Sullivan asked if a shoreline approval for a four season room had already been granted and Mr. Schofield replied yes, it is in the application.

The Applicant went through the criteria:

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

It will enhance the value of the home, the look of the home and the neighborhood.

Discussion: Chair Saba informed that the Board must decide if the variance would alter the essential character of the neighborhood or threaten the health and safety or general welfare of the public. He stated that he drove by and believes that the seven foot encroachment is not substantial in the sense of what else is happening in the immediate area.

Member Sullivan asked if the 22 feet, 6 inches from the proposed edge of the sun room were to the lot line or to the edge of the pavement. Mr. Schofield explained that it is to the edge of the additional pavement. He measured it from the road and the application is in the perimeters of the lot, but there is a portion of the road that is paved to the retaining wall. If that section is measured, it goes to 22 feet, 10 inches. Mr. Sullivan explained that the retaining wall is not really at the road edge, there is basically a driveway where vehicles can pull off and not be in the road.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustments voting agreed that the conditions of Article IV Section 400:4(1) are met based on the application and the discussion as present. Vote: 5/0/0. The vote is unanimous.

2) The spirit of the ordinance is observed because:

The applicant is asking for the variance so that the existing rock wall and stairs can remain as-is, allowing the post of the sunroom to land right outside the rock wall.

Discussion: Chair Saba informed the applicant that the spirit of the ordinance is being discussed and the issue is if granting the variance would go against the spirit of the ordinance.

Vice Chair Connors stated that the ordinance is intended so that houses would not be too close to the road but it appears that there are already structures that are closer than the required setback. Chair Saba stated that based on the plan submitted, the proposed addition is not as tall as the existing structure. It is a one level flat top which was originally to be used for an open air deck. The building next to it is closer to the road. It is necessary to consider a cumulative effect, however, he believes that in this unique instance, the proposed addition would enhance the neighborhood.

The hardship would be that if the proposed variance were not granted, the existing retaining wall which is holding back grade, would have to be rebuilt.

Chair Saba asked for more discussion. There was none.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustment voting agreed that the conditions of Article IV Section 400:4(2) are met based on the application and the discussion as presented. Vote: 5/0/0. The vote is unanimous.

3) Granting the variance would do substantial justice because:

It will allow the applicant to move her aging parents into her home instead of into a nursing home. It will allow them a space to have visitors in comfort.

Discussion: Chair Saba stated that the issue is whether denying the variance would benefit the general public more than granting the variance to the applicant and he sees no general public gain by denying the requested variance.

Chair Saba asked for more discussion. There was none.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustments voting agreed that the conditions of Article IV Section 400:4(3) are met based on the application and the discussion as present. Vote: 5/0/0. The vote is unanimous.

4) For the following reasons, the values of the surrounding properties will not be diminished:

With the renovations to the existing bungalow, there will be more beautiful homes in the neighborhood that will enhance the neighborhood, it will be more updated which will also enhance the neighborhood. It should also bring up the property values in the neighborhood.

Discussion: Member Wade stated that based on his drive by, he agreed. Chair Saba stated that it is not up to the Board to determine value, it is up to the abutters. However, there has been development in the whole neighborhood and property values have been increasing and any improvement would probably be a good thing.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustment voting agreed that the conditions of Article IV Section 400:4(4) are met

based on the application and the discussion as present. Vote: 5/0/0. The vote is unanimous.

5) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because (answer a & b)

(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 because;

The proposed addition would not infringe on any other properties in the neighborhood because the applicant is not requesting a variance on the side or back. The variance requested is just a little in the front.

Discussion: Chair Saba stated that the uniqueness of this lot is the retaining wall and it is significant. To ask the applicant to move the retaining wall would not be beneficial to the Town in anyway. He believes that granting the seven foot variance would do substantial justice.

There was no more discussion.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustment voting agreed that the conditions of Article IV Section 400:4(5a) are met based on the application and the discussion as present. Vote: 5/0/0. The vote is unanimous.

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

It will still leave 22 feet 8 inches to the front lot line and it will enhance the applicant's property to increase the value of the neighbor's properties.

Discussion: Chair Saba stated that the use is residential and is not changing the characteristics of the neighborhood in any way. Member Sullivan stated that this type of addition is consistent with the neighborhood. Also, that it is planned for infiltration, so the roof water is being collected instead of sheeting off the property. It is a good looking project combined with a good practice and is what the Board should encourage. The infiltration component is a positive and should be thought through on other projects especially when setbacks are considered.

Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. All members of the Atkinson Zoning Board of Adjustment voting agreed that the conditions of Article IV Section 400:4(5b) are met based on the application and the discussion as presented. Vote: 4/0/0. The vote is unanimous.

Chair Saba requested a motion.

Member Leondires made a motion to approve the Application for Variance from Article IV Section 400:4 submitted by Kathleen Schofield to allow construction of a sunroom 22.8' from the front setback (7.2' variance) where 30' is required on property located at 9 Hemlock Shore Dr. Map 22 Lot 112 in the RR3 Zone.

Vice Chair Connors seconded the motion.

Discussion: none

Roll Call Vote: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes. Vote: 5/0/0. The vote is unanimous.

Chair Saba informed the applicant that the application was approved and there was 30 days to appeal.

Vice Chair Connors made a motion to close the public hearing. Member Leondires seconded the motion. Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires yes; Member Sullivan, yes; and Chair Saba, yes. Vote: 5/0/0. The vote is unanimous.

Member Sullivan made a motion to adjourn the February 10, 2021 meeting of the Atkinson Zoning Board of Adjustment. Member Wade seconded the motion. Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires yes; Member Sullivan, yes; and Chair Saba, yes. Vote: 5/0/0. The vote is unanimous.

Chair Saba adjourned the meeting at 7:54 pm.