

ATKINSON ZONING BOARD OF ADJUSTMENT
21 Academy Avenue
Atkinson, New Hampshire 03811
Public Hearing Meeting Town Hall
Wednesday, February 14, 2018

Members Present

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

Others Present

Tim Lavelle, Lavelle Associates

Work Shop 7:00 PM

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

Other Business:

Correspondence:

- None

Approval of Minutes: January 10, 2018

January 10, 2018

The Atkinson Zoning Board of Adjustment reviewed the minutes of the January 10, 2018 meeting.

Vice Chair Sam Zannini made a motion to approve the minutes of the January 10, 2018 meeting as amended. The motion was seconded by Member Dave Farris. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.

Public Hearing – 7:30 P.M. - Chair Saba opened the public hearing at 7:30 PM February 14, 2018. Sam Zannini, Dave Farris, Will Stewart and Chair Saba 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 Maple Ave, Map 9 Lot 29 in the RR2 Zone. Continued from January 10, 2018.**

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

Mr. Lavelle appeared before the Board and requested a continuance. The Conservation Commission requested more information and Mr. Lavelle has not had time to compile it. Chair

Saba informed Mr. Lavelle that he contacted Rockingham Planning and was advised that Mr. Lavelle needs to show that a septic system can be built on that property. Mr. Lavelle agreed and informed the Board that he has not had time to get a septic design.

There were no more questions and no abutters. Chair Saba requested input from the board.

Vice Chair Zannini made a motion to grant the 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 at Maple Ave, Map 9 Lot 29 in the RR2 Zone (Continued from January 10, 2018) to the March 14, 2018 meeting of the Atkinson Zoning Board of Adjustment. Member Farris seconded the motion. All members of the Atkinson Zoning Board of 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 (Continued from January 10, 2018).

Chair Saba read a letter from the Conservation Commission regarding the variance. In the letter, the Conservation Commission asked for more information. Mr. Lavelle returned to the Conservation Commission with the information requested and the Commission recommends approval. Part of the condition of approval is removal of the shed.

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

Mr. Lavelle appeared before the Board with a new plan including the information that the Conservation Commission requested. There were concerns about existing drainage. Mr. Lavelle inspected the existing drainage and it will not be affected by the proposed addition. He stated that the shed needs to be moved because of the proposal itself and will be moved. There is an existing well that will be impacted. The proposed application will cap the existing well and use an old one. The old well has been tested and is fine.

Chair Saba informed Mr. Lavelle that the ZBA requested that the new driveway be shown on the plan. Mr. Lavelle stated that the new driveway will come in straight to the addition. The existing driveway will be removed. There is no existing garage. Mr. Lavelle clarified that there will be no additional bedrooms to the structure, however there will be a new bedroom in the addition over the garage, but the way it is working, the number of bedrooms will be the same and it will give them a garage under the proposed living space. Chair Saba clarified that it would be a bedroom and a bath. Mr. Lavelle stated "yes". This will bring the existing septic to its legal capacity. Chair Saba asked how Mr. Lavelle located the drainage. He located either end and doused for it. It may bend a little bit but he is not sure. Mr. Lavelle will make sure that it is intact. There is a culvert headed in that direction. Member Farris asked the perpendicular difference between the proposed addition and the buried drain pipe and Mr. Lavelle replied that

it is about 3 feet. Mr. Lavelle does not anticipate blasting. The proposed addition will be at existing grade. No test pits were done. The only test pits were for the septic system many years ago.

Jean Foley spoke and stated that they are concerned with the location of the septic system. Her backyard is less than 50 feet from the septic and there is a steep incline. The applicant informed her that it is zoned for three bedrooms. There are currently two bedrooms, but the septic is built for three. Mr. Lavelle stated that the septic is an older system with a stone and pipe leach field, but there have been no issues. Chair Saba informed Mr. Lavelle that he stated that there was no increase in the number of bedrooms. Mr. Lavelle stated that there is no increase in bedrooms for what the septic was designed for. Chair Saba informed the applicant that if the original septic fails, then a new septic must be built or updated. Mr. Lavelle responded that a new septic would be built. Chair Saba asked if there should be a reserve and Mr. Lavelle responded no, he has a note on his plan stating that the new septic would be put in where the existing septic is.

Chair Saba asked if anyone else would like to speak. There was no one who would like to speak.

Vice Chair Zannini made a motion to close the public hearing. Member Farris seconded the motion. All members of the Atkinson Zoning Board of Adjustment voted in favor. Vote: 4/0/0.

Chair Saba requested the Zoning Board of Adjustment go through the criteria for approval of the variance.

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

The proposal will not adversely affect the wetlands on the neighboring property and will not affect the existing drainage on the lot.

Discussion: The applicant went before the Conservation Commission. Chair Saba also stated that the applicant located the drain pipe. There is no easement for the drainage, but in discussion with the owners, an easement will be granted to the Town if requested. Mr. Lavelle has not met with the Road Agent to see if he would like an easement.

All Members of the Atkinson Zoning Board of Adjustment present agreed. Vote: 4/0/0.

2) The spirit of the ordinance is observed;

The proposal would not threaten the wetland or its present function. It would not be much closer to the wetland than what already exists in this neighborhood.

Discussion: Vice Chair Zannini stated that as far as the septic is concerned, the plan is staying within the three-bedroom design for the current septic so the system is not being over taxed. The proposed addition is further from the wetlands than the deck and the shed.

All members of the Atkinson Voting Board of Adjustment present agreed. Vote: 4/0/0.

3) Substantial justice is done;

It would allow the lot to be developed similarly to the other lots in the neighborhood.

Discussion: Chair Saba did a drive by and the proposed lot is no closer than other lots in the neighborhood. Mr. Lavelle stated that two lots would be combined and the lot actually increases in size. Member Stewart stated that it would be one of the bigger lots in the neighborhood. Chair Saba agreed that any improvement is a plus for everyone.

All members of the Atkinson Voting Board of Adjustment present agreed. Vote: 4/0/0.

4) The values of surrounding properties are not diminished;

The property itself would increase in value and would not have any adverse effect on the neighborhood and therefore would not diminish the values of surrounding properties.

Discussion: Member Stewart stated that he has not heard from abutters otherwise.

All members of the Atkinson Voting Board of Adjustment present agreed. Vote: 4/0/0.

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

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

The existing structure exists closer than 100 feet from the wetland, it will allow the property to be improved upon on existing lots of record and the applicant is increasing the lot size.

Discussion: Chair Saba stated that the special condition of this lot is that all lots in the neighborhood are small and this lot is not as tight as most. As far as the wetland, the applicant has been in front of the Conservation Commission and they believe that the application is adequate.

All members of the Atkinson Voting Board of Adjustment present agreed. Vote: 4/0/0.

(B) The proposed use is a reasonable one because:

It would allow the property to be used similarly to surrounding properties with no threat to existing drainage or wetlands.

Discussion: Chair Saba agreed that it will continued to be used as a single-family residence which is allowed in the area.

All members of the Atkinson Voting Board of Adjustment present agreed. Vote: 4/0/0.

Member Farris made a motion to approve 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 (Continued from January 10, 2018).

Discussion: Vice Chair Zannini asked about the easement.

Member Farris amended the motion to approve 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 (Continued from January 10, 2018) pending confirmation that drainage issues have been addressed. Vice Chair Zannini 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 and any work done prior to that is at their own risk.

Vice Chair Zannini made a motion to close public hearing. Member Stewart seconded the motion. All members of the Atkinson Zoning Board of Adjustment voted in favor. Vote: 4/0/0.

Vice Chair Zannini asked about the minutes of the January 10, 2018 meeting.

Member Farris made a motion to adjourn the February 14, 2018 meeting of the Town of Atkinson Zoning Board of Adjustment at 7:58 PM. The motion was seconded by Vice Chair Zannini. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.