

ATKINSON ZONING BOARD OF ADJUSTMENT

21 Academy Avenue

Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall

Wednesday, May 12, 2021

Members Present

Glenn Saba, Chair
Bob Connors, Vice Chair
Arthur Leondires
Kevin Wade
Scott Sullivan

Others Present

Sue Coppeta, Planning Office Administrator
Karen Wemmelmann, Recorder
Barbara Brown

Workshop 7:00 PM

Approval of Minutes: April 14, 2021

Vice Chair Connors made a motion to approve the minutes of the April 14, 2021 meeting as amended. The motion was seconded by Member Wade. Roll Call: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes; the members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 5/0/0. The vote is unanimous.

Correspondence: none

Call to Order: Chair Glenn Saba called the meeting to order at 7:30 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. Please note that there is a physical location at Atkinson Town Hall. However, the meeting is being held contemporaneously. 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.

Chair Saba introduced the Board: Vice Chair Connors, Member Wade, Member Leondires, Member Sullivan, and Chair Saba.

Public Hearing – 7:30 P.M.

Chair Saba opened the public hearing at 7:30 PM, May 12, 2021.

Chair Saba informed the Board and the audience that there were two items before it. The first is a continuance from Richard Braley to allow construction of an inground swimming pool and the Board has a withdrawal notice.

- 1. Application for Variance from Article VI Section 600:8 b submitted by Richard Braley to allow construction an inground swimming pool 9' from the side property line**

setback (6' variance) where 15' is required - on property located at 11 Winslow Dr. Map 13 Lot 29-27 in the TC Zone. (cont'd from 4/14/21 meeting) *WITHDRAWN*

Abutters:

Winslow Drive Realty Group LLC, Jameson Ridge Homeowners' Assn c/o Sharon Boyle; Richard P. Oliveri, Jr. and Jessica Oliveri; Richard R. Braley, Jr. and Heather E. Braley (present); Paul A. Marcotte III and Stacey Marcotte; Hall 2016 Trust, Leonard & Joan Hall, TTEES; Jason W. Stover and Brinlyn A. Stover; Lisa A. Sarcia and David A. Montanus; James Lavelle, Assoc.

Chair Saba read the withdrawal notice. In summary, by letter to the Atkinson Zoning Board of Adjustment dated May 5, 2021, the applicant requested to withdraw the above variance request without bias or prejudice. The letter was signed by the applicant's representative, James Lavelle.

Vice Chair Connors made a motion to approve the request to withdraw the Application for Variance from Article VI Section 600:8 b submitted by Richard Braley to allow construction an inground swimming pool 9' from the side property line setback (6' variance) where 15' is required - on property located at 11 Winslow Dr. Map 13 Lot 29-27 in the TC Zone. The motion was seconded by Member Leondires.

Roll Call Vote: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes; the members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 5/0/0. The vote is unanimous.

2. Application for Variance from Article IV Section 503 b submitted by Barbara Brown for Dennis & Pamela Haskin to allow construction a single family dwelling on a parcel with 150' frontage where 200' is required (50' variance) - on property located on Maple Ave Map 14 Lot 37 in the TR2 Zone.

Abutters:

Mark R. Perri and Joni Belfiore, Reed Family Revocable Trust, Reed, Alan & Gail Reed, Trustee, Stanley J and Monique Moron, Matthew J. and Paula J. Fetty (present), Dennis and Pamela Haskin, Megan A. Duffy (present), John H. and Jacqueline S. Gillian, Richelle C. Messersmith, Ryan Kelleher and Tatum Mortimer, Jay S. and Colleen Alper, Thirty Academy Avenue Realty Trust, Jeannette White Trustee, Jeffery W. and Laura K. Flieder (present), Daniel Desmond, Livingston Family Realty Trust, John M. and Pamela G. Livingston, TTEE, David W. and Julie M. Hammond, Albert P. and Karen B. Pettoruto, Robicsek, Daryl McGregor Rev, Daryl Mcgregor, TTee

Chair Saba informed all present that he has a letter from the applicant giving authority to Ms. Barbara Brown to represent them and asked her to come before the Board. He informed abutters present that they would have an opportunity to speak.

Ms. Brown informed the Board that the applicants purchased the property in 1992. There is a plan stamped by the Planning Board dated 1969. She does not know the intent of the Planning Board at that time. According to that plan, the lot was subdivided with two points of access. She feels that a cluster concept for that property is not feasible because of the road. A single family home would be more feasible and a septic design was done for one home. Without a frontage variance, the proposed lot is landlocked. Therefore, the applicant is requesting a variance for a driveway to the 16.8 acres.

Chair Saba stated he sees the septic design by SEC Associates but he does not see the survey to the street. There are conflicting plans as to how much frontage is actually there so he was hoping to see a survey.

Ms. Brown said there were several conflicting numbers regarding frontage, one on the deed and the tax map says something else. There is no consistency.

Ms. Brown informed the Board that SEC Associates found the monuments when they did the septic design and Chair Saba asked why they were not on the plan. Ms. Brown explained that SEC was hired only for the septic design. There is a recorded subdivision plan.

Chair Saba asked if the recorded subdivision plan was done in 1992. He is looking at Plan C-21879. Ms. Brown informed him that was the lot line revision of 1992. There is also recorded plan #1611. It is the Rockwell Plan of 1969. Ms. Brown explained that the 1992 plan was a lot line adjustment for an abutter's well which was done prior to the current owners purchase of that abutting home.

Ms. Brown explained that the septic design shows the proposed driveway from the 50 foot right of way. The stakes are still there.

Chair Saba explained to Ms. Brown that the applicant is asking for relief of 50 feet but it is unclear how much relief is actually needed. Vice Chair Connors stated that the plans before the Board show 30 feet of frontage. Chair Saba said a survey was done and he does not understand why it was not done to the road since the relief requested is for frontage.

The Board discussed the size of the frontage. The deed states that the lot has 50 feet of frontage while other plans show 32 feet and another plan shows 50 something feet, and also 105 feet of frontage. The septic plan submitted did not show the street frontage.

Vice Chair Connors asked if the right of way could be considered part of the frontage and he was informed that it was on the applicants' property so it could be.

Chair Saba agreed that it is confusing and it is hard to understand. Back in 1969, when the subdivision was approved, zoning required 150 feet of continuous frontage and it was not provided. Ms. Brown stated that she did not know. Ms. Brown informed the Board that the applicant is asking for relief on the 50 foot portion and that has been staked. Chair Saba stated that the applicant is asking for relief of 50 feet from the required 200 feet. Vice Chair Connors pointed out that the Board did not know the exact frontage. Chair Saba informed Ms.

Brown that the Board needs to know the actual frontage for the property before a variance can be granted for relief of frontage.

Chair Saba opened the hearing to the public.

Mr. Jeff Leider spoke and asked if the only thing that could be put on the property is a single family home.

Chair Saba explained that the applicant is seeking relief for one single family home on the 16.7 acres. Where the home is located will be limited by all the wetlands and the property will still have to meet setbacks.

There was discussion regarding setbacks and Chair Saba reviewed the proposed plan. He stated that according to the plan, setbacks were 30 feet all around minimum.

Mr. Fetty requested to speak. He stated that his well is 30 feet from the driveway and he is concerned it will be affected. Also, he questions the setbacks. Another issue is the frontage, he measured it and it is 147 feet.

Chair Saba informed him that what is before the Board is a request for relief on frontage for one single family dwelling on 16.8 acres. If anyone ever wanted a second home, they would have to come before the Board for a second variance. He also stated that the alternative would be a road across the wetland to the back of the property.

He explained that the applicant has a right to use their property and is requesting relief from frontage. The Board wants to make sure it knows how much relief is being granted before the application is considered and it is requesting certification of frontage.

Mr. Fetty asked if there was an address number for the property.

Chair Saba stated that there is an open house number on the south side but the applicant is stating that it cannot be used for entry because it is wet. The entrance will be the north access point so the applicant will have to petition for a number. He believes one house will have to change.

Mr. Fetty informed the Board that that area is all water.

Chair Saba informed him that the applicant did test pits and has an approved septic system. He understands Mr. Fetty's concerns for his well, but there is not much the Board can do if the applicant is on its property. Also, according to the proposed plans, his well is more than the 75 feet required from the proposed septic system.

Chair Saba informed the abutters that if there are no restrictions, the applicant can do what it wants on the property.

Mr. Fetty again questioned the location of the proposed driveway. He pointed out that the area where the driveway is proposed is frequently flooded and asked if the area would need to be built up. Chair Saba stated that the septic plan does not show wetlands. He agreed that the

area would most likely have to be built up and when it is, the water would shed to Mr. Fetty's property.

Member Sullivan pointed out that the driveway would have to be reviewed by the Fire Department. Chair Saba stated that Town regulations state that if the home is more than 150 feet from the road than the structure has to be sprinklered or the driveway would have to be a fire lane driveway, 18 feet wide and graveled. This would have to be determined by the Fire Department and the Building Inspector.

Ms. Brown requested to go by the deed which shows 100 feet and 50 feet.

Chair Saba again informed Ms. Brown that the Board would like a survey of the frontage and including the entire length of the two legs. The Board wants to know what is there. He also wants to see the septic system that was there when he walked the property. Chair Saba reiterated that the Board wants to know what is there.

Chair Saba explained that the Board wants to know the frontage for both legs. Also, he has a plan that shows a right of way or an easement. If the plans are recorded it would be easy for the surveyor to find them and put all the information on one plan instead of looking at several different plans. The Board would like one plan that shows any encroachments or encumbrances that may exist such as any easements or any structures that might be there.

Chair Saba asked if there were any more comments from the Board and from the abutters.

Ms. Megan Duffy, 76 Maple Street, stated she is concerned that the easement is not continuous and asked what is considered frontage and if it needs to be continuous. Chair Saba informed her that in 1968, 150 feet of continuous frontage was needed but according to current zoning regulations, the frontage needs to be 200 feet and it is a combination of 200 feet.

She is also concerned that her septic is there and is concerned about the setback and she is concerned about the footage from her septic to the driveway. Chair Saba informed her that there is no setback on that. Chair Saba stated there are several plans. One plan shows an easement or right of way, that is one thing he would like clarification on. Looking on the other side, it appears there might be a septic, so that is what the survey will show the Board.

Ms. Laura Flieder asked if the Board needs to meet again if the applicant needs to do a survey. Chair Saba informed her that it is up to the applicant to request a continuance or go through the criteria.

Ms. Gail Reed stated that her driveway is across from the proposed driveway and she is concerned about traffic from Academy Avenue. Chair Saba informed her that if she is concerned about traffic, she should express her concerns to the police. He pointed out that the applicant would have to request a driveway permit. And, Ms. Reed can also express her concerns to the Road Agent about the driveway.

Chair Saba informed Ms. Brown that the Board goes by the recorded plan. Also, when the property is surveyed, the surveyor will look at all prior plans and every deed. Ms. Brown asked

if it would be a survey of the entire property. Chair Saba informed her that the Board is only concerned with frontage. The Board has several different plans in front of them and one shows the lot line adjustment creating something different than the previous plan. The latest plan actually gives the abutter an additional few feet.

Member Sullivan agreed that as much information that can help the Board understand the area is needed. Currently, there are multiple contradictory sheets.

Chair Saba informed Ms. Brown that the Board needs clarification and would like a survey.

Ms. Brown stated that she would request a continuance.

Chair Saba also informed Ms. Brown that the Board would like a survey of both sections because the septic design is not to scale and also it does not go to the road. He would like both sides surveyed to verify the monuments. Ms. Brown said it was on the septic design. Chair Saba again informed her that the septic design does not go to the street and the Board needs something that goes to the street because the applicant is asking for a variance for frontage.

The Board discussed other places to put the driveway. Chair Saba stated he would like to see the driveway on the plan.

Chair Saba informed the Board that the applicant is requesting a continuance to June 9, 2021.

Member Leondires made a motion to approve the request for continuance of the Application for Variance from Article IV Section 503 b submitted by Barbara Brown for Dennis & Pamela Haskin to allow construction a single family dwelling on a parcel with 150' frontage where 200' is required (50' variance) - on property located on Maple Ave Map 14 Lot 37 in the TR2 Zone to June 9, 2021. The motion was seconded by Member Sullivan.

Roll Call Vote: Vice Chair Connors, yes; Member Wade, yes; Member Leondires, yes; Member Sullivan, yes; and Chair Saba, yes; the members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 5/0/0. The vote is unanimous.

Chair Saba stated the application is continued and the public hearing is still open. Hopefully, the Board will have a survey of what is at the street and what is in the two legs of the land.

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

Member Sullivan made a motion to adjourn the May 12, 2021 meeting of the Atkinson Zoning Board of Adjustment at 8:21 pm. Vice Chair Connors seconded the motion. Roll Call: Vice Chair Connors, yes; Member Leondires, yes; Member Wade, yes; Member Sullivan, yes; and Chair Saba, yes. Vote: 5/0/0. The vote is unanimous.

Chair Saba adjourned the meeting at 8:21 pm.

