

ATKINSON ZONING BOARD OF ADJUSTMENT
21 Academy Avenue
Atkinson, New Hampshire 03811
Public Hearing Meeting Town Hall
Wednesday, July 11, 2018

Members Present

Glenn Saba, Chair
Vice Chair Sam Zannini
Member Bob Connors
Member David Farris

Others Present

Veronica Riley

Work Shop 7:00 PM

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

Other Business: none

Correspondence: not reviewed

Approval of Minutes: June 13, 2018

The Atkinson Zoning Board of Adjustment reviewed the minutes of the June 13, 2018 meeting.

Vice Chair Zannini made a motion to approve the minutes of the June 13, 2018 meeting as amended. The motion was seconded by Chair Saba. Vice Chair Zannini and Chair Saba, two members present at the June 13, 2018 meeting voted in favor. Vote: 2/0/0.

Public Hearing – 7:30 P.M. - Chair Saba opened the public hearing at 7:30 PM, July 11, 2018. Chair Saba, Vice Chair Zannini, Member Robert Connors, and Member David Farris were present.

Veronica Riley, request for Special Exception/Home Business as specified in the Zoning Ordinance, Article IV, Section 450 to operate “4Core Fitness Training” at property located at 38 Salem Rd, Map 2 Lot 41, RR2 Zone.

Abutters: John and Maria Sinclair, John Davidson, Linda Roberts, Jennifer Maser, James and Joan Moore, Edgar and Ann Carter Family Realty Trust and Veronica Riley (present)

Chair Saba explained that the Special Exception/Home Business is allowed by right if it meets all the criteria under the Zoning Ordinance.

The applicant came before the Board. Chair Saba asked the applicant if she was proposing to do fitness training. The applicant explained that all the equipment will be in one room. There will be room for only one or two people to train on the equipment at one time. There is plenty of off street parking. There are no chemicals other than those used for household cleaning. There will be no deliveries, no merchandise, and no signs. The house is seven rooms, so the business will occupy less than 20%. The business will mostly operate during the day and early evening. It will not be open after 9:00 PM or before 6:00 AM. There is no company car or truck.

Chair Saba asked the Board if there were any questions. The members of the Board present had none.

Chair Saba read Town of Atkinson Zoning Ordinance Section 450:1 on page Z29 of the Town of Atkinson Zoning Ordinance Planning and Use Regulations: All home occupations except those exempted under Section 450:5 shall be required to apply for a home occupation permit. A permit for a home occupation shall be allowed in residential zones by special exception from the Board of Adjustment if the occupation complies with the following:

a) A proposed occupation shall be incidental and secondary to the use of the property as a dwelling and shall not consume more than 20% of the gross residential building space, and not change the residential character of the premises thereof. (1992)

Discussion: none

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

b) Unless exempted by Section 450:5-a, no home occupation shall take place in a multi-family dwelling.

Discussion: It is a single family home. Member Connors asked if it should be Section 450:4-a. Chair Saba read Section 450:4-a and explained that it applies to someone with a home office and has no customers.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

c) The occupation may be carried on by the occupant's immediate family residing at that location and by one or more additional employees whose aggregate hours of work at that location do not exceed eighty hours per week (80 hours/week). The foregoing limitations on the aggregate hours of work per week by additional employees shall not apply in the case of medical, dental or veterinarian.

Discussion: The applicant informed the Zoning Board of Adjustment that there would be no employees, and she planned to work approximately 30 hours per week.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

d) There shall be no physical evidence of equipment or materials outside the dwelling.

Discussion: Chair Saba asked if there would be exercising outside and the applicant replied that there would not be.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

e) Adequate off-street parking areas must be provided. Parking areas in excess of those necessary for normal residential purposes may be allowed in side and rear yards only provided the residential character of the environment is preserved. (1992)

Discussion: Chair Saba concurred that the applicant has plenty of parking. Member Farris asked the number of cars that could be parked in the circular drive. The applicant replied that as many as 15 cars could be parked there at a time. The applicant explained that there is also parking in front of the garage that can easily fit four cars.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

f) When necessary, further restrictions shall be placed on the occupation in order to comply fully with Article IV, Section 400:2 of this ordinance.

Discussion: Chair Saba informed the audience that the ordinance refers to page Z15 of the Atkinson Zoning Ordinances which talks about obnoxious or injurious situations and asked if that were the case, if everything is indoors and if there would be loud music that rocks the house. The applicant agreed that everything was indoors and there would be no loud music.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

g) A permit to operate a home occupation shall be issued to the owner/occupant only and is transferable to a subsequent owner who will certify to the Zoning Board in writing that he or she will continue the home occupation on the same terms and conditions as the previous owner.

Discussion: Chair Saba asked if the applicant understood and she stated yes.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

h) The applicant shall complete and sign a form that sets forth the nature of the home occupation and provides details of the business and its scope of operation.

Discussion: The applicant satisfied 450:2h in the application and will get a permit from the building office.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

i) No home occupation that will result in heavy truck use in excess of 20,000 lbs. gross vehicle weight shall be allowed. (1992).

Discussion: No one is pulling trucks. There will be no heavy vehicles.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

j) Vehicles registered to a home business or occupation must comply with the provisions of Section 480:1. (1992).

Discussion: Applicant just has personal vehicles and they are not registered to the business.

The Atkinson Zoning Board of Adjustment agreed unanimously that the application meets this criteria as stated. Vote: 4/0/0.

Chair Saba reviewed Section 450:3 – Nature of the Permit for the applicant:

a) Permits shall be issued by the Zoning Board of Adjustment.

Discussion: None.

b) Prior to the issuance of a permit, the Board of Adjustment shall hold a public hearing. Abutters will be notified of the time and date of the hearing by certified mail, such letter to include a description of the home occupation applied for and its location.

Discussion: Chair Saba explained that the hearing has been held, the abutters have been notified, and Chair Saba has proof of notification.

c) Before a permit is granted, mandatory building inspections shall be made by the Town if it is a Family Group Day-Care Home facility, or if the public is to be served or persons outside the family are to be employed at the proposed location or if hazardous materials are to be stored there. In addition, a formal site plan review may be required if deemed necessary.

Discussion: Chair Saba informed the applicant that her proposed business may fall under the “public being served” criteria and the Building Inspector will inform her if he needs to inspect.

d) No more than one business permit can be in effect for any one location.

Discussion: Chair Saba asked if this were the only business that exists and the Applicant explained that her husband has a business but he is exempt because he does not see customers. Member Farris stated that he also was curious about other businesses.

e) A permit is valid only for two (2) years and only for the owner/occupant and location for which it is issued. A renewal permit shall be required after two (2) years.

Discussion: The applicant agreed.

f) Annual inspections of the home occupation/home business premises may be required subsequent to the issuance of a permit in order to confirm compliance with the conditions of the original special exception granted. If, in the opinion of the Board of Selectmen, the business practices originally set forth and defined in the initial approval have changed, it shall revoke the permit that was issued. Permit holders whose permits are revoked may make application to the Board of Adjustment for a new permit based on the changed circumstances of the business.

Discussion: None.

Chair Saba requested a motion.

Vice Chair Zannini made a motion to approve the request for Special Exception/Home Business for Veronica Riley as specified in the Zoning Ordinance, Article IV, Section 450 to operate “4Core Fitness Training” at property located at 38 Salem Rd, Map 2 Lot 41, RR2 Zone. Member Farris seconded the motion. All members voted in favor. Vote: 4/0/0.

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 present voted in favor. Vote: 4/0/0.

Chair Saba requested a motion to adjourn.

Member Connors made a motion to adjourn. Member Farris seconded the motion. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0.