

ATKINSON ZONING BOARD OF ADJUSTMENT

21 Academy Avenue

Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall

Wednesday, May 11, 2022

Members Present

Glenn Saba, Chair

Bob Connors, Vice Chair

Kevin Wade

Scott Sullivan

Others Present

Karen Wemmelmann, Recorder

Workshop 7:00 PM

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

Approval of Minutes:

Member Sullivan made a motion to approve the minutes of the January 12, 2022 meeting as written. The motion was seconded by Member Wade. All members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0. The vote is unanimous.

Correspondence: none

Reorganization:

There was a vote to elect a chair and vice chair at the January 12, 2022 meeting. Glenn Saba was elected Chair and Bob Connors was elected Vice Chair.

Changes to the Zoning Ordinances were adopted at the Town Meeting.

Public Hearing – 7:30 P.M.

Chair Saba opened the public hearings at 7:30 PM, May 11, 2022. There are four members of the Zoning Board of Adjustment ("Board") present. There are two applications for public hearing.

- 1. Application for Variance from Article IV Section 400:4 submitted by Theodore Mouzakis to allow construction of a 16' x 20' garage 2' from the lot line (13' variance) where 15' is required and 17.5' from the front setback (12.5' variance) where 30' is required - on property located at 36 Hemlock Shore Dr. Map 22 Lot 60 in the RR3 Zone.**

Abutters:

ABH Realty Trust, Arlene Hawkins, Adam Sugar, Theodore Mouzakis (present), John J. and Margaret M. Robillard, Big Island Pond Corporation

Discussion:

Chair Saba requested the applicant to come forward. Chair Saba read the abutters list.

Chair Saba said he did a drive by the property. It is difficult to find houses in the neighborhood because there are few house numbers posted, but he believes he found the property.

The applicant, Theodore Mouzakis, came forward. He has lived in Atkinson 22 years. He is a retired mechanical engineer. His driveway is very steep. He explained that he would like to level the driveway and put in at least a one and a half car garage. He has discussed this with the abutters. He has a statement from John and Margaret Robillard stating they have no objections.

Mr. Mouzakis showed the Board a model of his house and the proposed garage. He has some wood to store as well as his car. The addition will give him better access and save him from the danger of slipping.

Vice Chair Connors asked if the fence in the picture would be impacted. Mr. Mouzakis replied that he will take out the section of the fence where the garage is proposed. The garage will be attached to the house.

Chair Saba asked if the proposed garage would be in front of the jog that looks like a utility shed. Mr. Mouzakis replied that he is proposing steps at that location.

Chair Saba read a letter dated April 28, 2022 from John and Margaret Robillard, 34 Hemlock Shore Drive, Atkinson New Hampshire, addressed to Theodore Mouzakis, 36 Hemlock Shore Drive, Atkinson, New Hampshire.

"Hello Theodore, thank you for taking the time to discuss the 16 foot by 20 foot single story attached garage type structure you are seeking to build on the side of your property at 36 Hemlock Shore Drive in between our houses. We understand that the structure will fall about two feet from our shared property line. We are in support of your building the structure and having it fall within two feet of the property line. Thank you for taking the time to check with us. Kind regards, John and Margaret Robillard"

Chair Saba stated that the applicant gave the Board a sketch. The applicant is asking for a huge relief. A 15 foot side set back is required and the applicant is asking for two foot setback but he does not have a certified plan to show what is really there. Chair Saba feels the setback is too tight and the Board needs something from an engineer. The applicant agreed.

Also, Board needs to know where the septic system is. The applicant showed him the location of the septic system on the drawing. Chair Saba remarked that it looked like the garage was on top of it. Mr. Mouzakis said no and pointed out the septic system. Chair Saba stated he saw a test pit and two rectangles. Mr. Mouzakis explained that that piece is the reserve. He put it in 7 years ago and was told he can drive on it. Chair Saba explained that he may be able to drive on it but he can't dig on it and asked where the foundation would be.

Mr. Mouzakis informed the Board that he would not dig on it. The foundation for the garage will be 3 feet above the septic. It will be a stone wall, built up to the level. The foundation will be on top. There will be compacted gravel, and then 4-6 inches top reinforced concrete. The

garage will be on top of the septic tank. There are three holes on the tank, only one will be covered. The leach field is behind the house.

Member Sullivan remarked that the tank cannot be within five feet of a structure and he does not believe the tank can be underneath a structure. Member Sullivan asked if the foundation would be poured concrete. Mr. Mouzakis explained that the foundation will be cement blocks to protect the neighborhood and then back filled with gravel. It will be lifted up three feet and accessible from inside the garage for servicing. Member Sullivan stated he did not believe it was possible.

Chair Saba informed the applicant that he is on the lake and he is dealing with a septic system. State approval would be needed for his system. By regulation, the tank needs to be five feet from a structure and the applicant wants to build on top of it. The Board cannot allow it, and it is beyond the jurisdiction of the Board. Chair Saba recommended the applicant get an engineer to make a drawing of the plan for the septic and structure then send it to the State to sign off on it.

Mr. Mouzakis explained that the drawings were prepared by an engineer and approved by the State. Vice Chair Connors stated that the septic drawings were approved by the State before the applicant proposed to put a building on it.

Chair Saba stated that even if the applicant can drive on it, putting an enclosed structure on it is different. The Board looked at the septic design drawing and discussed the location of the leach field.

Mr. Mouzakis explained that the septic is a concrete tank in two parts that is sealed together. It can hold the structure of a house.

Member Sullivan again explained that the septic has to be located 5 feet from a foundation.

Chair Saba stated that Mr. Mouzakis is saying that his design would allow a structure to be placed on top of the septic. Member Sullivan explained that he would need a stamped septic plan from a New Hampshire registered septic designer.

Chair Saba explained to the applicant that the Board cannot go forward. He understands what the applicant is saying, that the system is designed to be partially underneath a structure. However, the Board cannot go forward without an engineered stamped plan stating that the septic tank is designed to be partially under a structure. He believes the tank needs to be five feet away. The Board cannot entertain the application without a certified septic plan. He informed the applicant that his best option would be to withdraw the application. Otherwise if the Board voted, the applicant would have to wait 2 years before he could come before the Board again.

Member Sullivan requested to discuss some other issues. He recommended the applicant talk to the fire chief. Access would be limited to the right hand side because there will only be two feet to the lot line. Chair Saba agreed. It is too close to the next house.

Mr. Mouzakis stated he could get a certified plan and would speak to the fire chief.

Member Sullivan requested the applicant show the Board the front setback. According to the plan, the applicant is requesting a 12.5 foot variance on the side. He is also requesting a variance for frontage. Chair Saba informed him that when he gets a stamped, certified plan, it must show the setbacks as well as the frontage of the lot. It must show what exists and what is proposed.

Vice Chair Connors stated that this is protecting him when he sells his house.

Mr. Mouzakis explained that he could get a steel building and put it in without permission.

Vice Chair Connors also explained to the applicant that the Board cannot go forward with the application as it is now.

Member Sullivan asked about runoff from the roof. Mr. Mouzakis explained that there is drainage.

Member Sullivan asked about the proximity to the structure on the right hand side and recommended the applicant to speak to the fire chief. Member Sullivan explained that it is a high hazard building because it is a garage.

Mr. Mouzakis explained that he thought appearing in front of the Board would be the first step. Vice Chair Connors stated the Board has to consider whether the requested side setback variance would cause damage to the public and is requesting a letter from the Fire Chief stating there is no danger to the people next door.

Chair Saba explained to the applicant that the Board is making a list of what it is requesting. The first thing Mr. Mouzakis would need is a stamped plan for the septic system stating that a structure can be placed above it, then a site survey showing the building with dimensions from the lot line and the front set back as well as the proposed setbacks on the same stamped plan. The Board also needs to know the distance from the garage to the dwelling on the right and a letter from the Fire Chief saying he has reviewed the drawing and it and he is fine with it.

Chair Saba stated that the Board is trying to help the applicant.

The applicant objected, stating that there are other properties that have been granted similar variances.

Vice Chair Connors explained, that will be something that would be considered.

Chair Saba stated that before the discussion went further, he would open the hearing to the public. No one came forward.

Chair Saba asked the applicant what his next step would be. The applicant stated that if the Board thinks he needs all this detail, then he may not follow the rules.

Vice Chair Connors explained that the options presented to the applicant were to withdraw without prejudice or request a continuance. The applicant explained that he has talked to an engineer and he already has a plan.

The applicant stated he would ask around and possibly continue.

Mr. Mouzakis informed the Board that he is an engineer, there is not going to be a heavy load.

Chair Saba reiterated that the Board cannot approve or discuss the application as it is presented, the Board needs a stamped plan from a septic designer showing its okay for a structure to be placed on it. Member Sullivan informed the applicant that the Board needs a current plan of the site from a licensed New Hampshire surveyor showing exactly what the applicant is asking for. It will be needed for the building permit process. The survey also needs to show the offsets side and front and where the structure on the neighbors side is.

Chair Saba informed the applicant that even if the septic tank could handle the load, the regulations do not allow a building on top of a septic tank.

The applicant requested a continuance to July 13, 2022.

Vice Chair Connor made a motion to continue the application to July 13, 2022 for Variance from Article IV Section 400:4 submitted by Theodore Mouzakis to allow construction of a 16' x 20' garage 2' from the lot line (13' variance) where 15' is required and 17.5' from the front setback (12.5' variance) where 30' is required - on property located at 36 Hemlock Shore Dr. Map 22 Lot 60 in the RR3 Zone.. Member Sullivan seconded the motion. All members of the voted in favor. Vote: 4/0/0.

2. Application by Leonard & Catherine Traub for Special Exception under Article VII Section 700:2 to allow conversion of a seasonal home to year-round status on property located at 12 Hemlock Heights Rd. Map 22 Lot 95, in the RR3 Zone.

Abutters:

John Pomer, Marjorie Venditti, Carol Palmegiano Irrev. Trust, Carol Palmegiano TTE, Susan C. Collette, Catherine L. and Leonard A. Traub (present), Davies Family Rev. Trust, Adam W. and Robin A. TT, Budzyna 2016 Trust, Gail S. Budzyna and Nicole M. DiFramco TTEEs, Lorraine D. Gorrow Rev. Trust, Diane M. Gorrow (present), Samantha Stenbeck and Kevin Choinski, Hemlock Heights c/o Diane Gorr

Chair Saba requested the applicant come forward.

Chair Saba read a note from the Planning Administrator stating that there is no approval on record for the septic system at 12 Hemlock Heights. The note states that the Planning Administrator even called DES and checked on the web site. The Code Enforcement Officer also sent a letter in 2002 asking if the property were used year round. The applicant was not living in the property in 2002. The former owners sent the Town a septic design but there is no record of it being built.

For a special exception, there are criteria that need to be met. One of the criteria is an approved septic system.

There have been several conversions which have come before the Board. In every case, the septic and water systems have been brought up to date. Life safety issues have also been

addressed. In every case, the homes have been brought up to code. Also there is no number on the home. The applicant must show that there is proper egress, life safety and a certified septic system.

The applicant stated that the Planning Administrator informed them that there was a septic system on the property because the picture shows a vent. The applicant explained that there is a tank in the back. Chair Saba agreed that there may be a septic that was built in 2002, but there is no record. It is the responsibility of the applicant to show the Board there is an approved septic.

Chair Saba stated that he observed that the bedroom windows would not meet egress safety requirements. The applicant informed him that they redid the windows and got a permit. Chair Saba informed him that there has to be a minimum opening of 5.7 square feet for at least one window in each of the bedrooms for emergency egress in a year round home.

The applicant asked if he could request a continuance. Chair Saba would recommend the applicant request a continuance.

Chair Saba informed the applicant that all criteria must be met in order for a special exception to be granted. Chair Saba requested the Board explain what would be required.

Member Sullivan stated a fire inspection should be done and a building permit be obtained for conversion from a three season home to a four season home. Electrical and plumbing inspections need to be done. A means to cook, sanitation and a kitchen sink are necessary. Washer/dryer hookups are needed. There has to be a source of heat. The pipes need to be properly protected from freezing. There has to be a proper access/egress door. A house number is needed. The applicant explained that they have one, it has not been put up since siding was installed last year. Member Sullivan stated that he was aware the applicant had a building permit. The applicant informed him that the permit has been signed off, there has been an inspection including electrical. A pipe could be put in the bathroom for a washer/dryer hookup. General insulation is also needed. The applicant explained that this has been done.

The applicant explained that he has a septic. The Board explained that the applicant would need to hire a septic designer to verify that the current septic is adequate and they would need a letter from the State.

Chair Saba opened the hearing to the public.

Ms. Diane Gorrow stated that she would wait to speak when the application is complete.

The applicant requested a 60 day continuance.

Vice Chair Connors made a motion to accept the continuance to July 13, 2022 of an Application by Leonard & Catherine Traub for Special Exception under Article VII Section 700:2 to allow conversion of a seasonal home to year-round status on property located at 12 Hemlock Heights Rd. Map 22 Lot 95, in the RR3 Zone. Member Wade seconded the motion. All members voted in favor. Vote: 4/0/0.

Member Sullivan again stated that a house number needs to be put on the house. No shorter than 4.5 inches, no narrower than 2.5 inches.

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

Member Sullivan made a motion to adjourn. Member Wade seconded the motion. All members of the Atkinson Zoning Board of Appeals voted in favor. Vote: 4/0/0.

The meeting was adjourned at 8:20 PM.