

## **ATKINSON ZONING BOARD OF ADJUSTMENT**

**21 Academy Avenue**

**Atkinson, New Hampshire 03811**

**Public Hearing Meeting Town Hall**

**Wednesday, April 12, 2023**

### **Members Present**

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

### **Others Present**

Karen Wemmelmann, Recorder  
Deputy Fire Chief Holigan  
Vernon Dingman, V. J. Dingman Consulting

### **Workshop 7:00 PM**

### **Approval of Minutes:**

#### **March 8, 2023:**

**Vice Chair Connors made a motion to approve the minutes of the March 8, 2023 meeting as amended. The motion was seconded by Member Wade. The members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 4/0/0, one member not voting.**

**Correspondence:** none

**Call to Order:** Chair Glenn Saba called the meeting to order at 7:30 PM and introduced the board members to the audience. He explained that there are three items on the agenda and two have requested continuances.

### **Public Hearings – 7:30 P.M.**

1. Application for Appeal of Administrative Decision submitted by Charles Cleary, Esq. and Wadleigh, Starr & Peters, P.L.L.C. for Charles Kinney & Jeanine Kinney Living Trust, Charles Kinney Trustee related to the denial of an Application for Building Permit on property located at Map 17 Lot 63 in the RR2 Zone **(cont'd from Feb 2, 2023). Applicant has submitted a request to move (continue) the hearing for this application 30 days.**

**Abutters:** The list of abutters was not read into the record.

**Discussion:** none

Chair Saba read a letter dated April 6, 2023 requesting extension into the minutes and addressed to the Planning and Zoning Administrator.

Re: Map 17, Lot 63, Huckleberry Lane - Appeal of Administrative Decision

"Dear Ms. Copetta: I am writing to request a 30-day continuance of the Appeal of Administrative Decision filed with respect to the above referenced property. Please remove this item from this month's agenda and continue to the May 10, 2023 meeting. Thank you, William P Reddington"

**Vice Chair Connors made a motion to allow a continuance to the next hearing of the Atkinson Zoning Board of Adjustment scheduled for May 10, 2023 of the Application for Appeal of Administrative Decision submitted by Charles Cleary, Esq. and Wadleigh, Starr & Peters, P.L.L.C. for Charles Kinney & Jeanine Kinney Living Trust, Charles Kinney Trustee related to the denial of an Application for Building Permit on property located at Map 17 Lot 62 in the RR2 Zone which was already continued from Feb 2, 2023 Member Sullivan seconded the motion. All in favor. Vote: 5/0/0.**

2. Application for Variance from Article IV Section 410:8b submitted by SEC & Assoc, Inc for Paul J. Schena to allow construction a proposed dwelling 91' from the wetlands both the east and west sides (9' variance) where 100' is required on property located at Maple Ave, Map 14 Lot 37 in the TR2 Zone.

Additionally, this application requests reconsideration of a condition of an approved variance from Article IV 530b granted June 9, 2021, regarding the location of the driveway. **Applicant has submitted a request to continue the hearing for this application to the May 10, 2023 meeting.**

**Abutters:** The list of abutters was not read into the record.

**Discussion:**

Chair Saba read a letter to the Board dated April 6, 2023 and signed by Charles Zilch, SEC Associates requesting an extension to the May 10, 2023 meeting.

"Dear Members of the Board: Please accept this letter as a formal request to continue the public hearing for the above referenced variance application to the next available Zoning Board of Adjustment meeting date. Thank you for your consideration".

**Member Sullivan made a motion to grant the request to continue to the May 10, 2023 meeting of the Atkinson Zoning Board of Adjustment the Application for Variance from Article IV Section 410:8 b submitted by SEC & Assoc, Inc for Paul J. Schena to allow construction of a proposed dwelling 91' from the wetlands on both the east and west sides (9' variance) where 100' is required on property located at Maple Ave, Map 14 Lot 37 in the TR2 Zone. Member Leondires seconded the motion. All in favor. Vote: 5/0/0.**

3. Applications for two Special Exceptions and two Variances submitted by Vernon Dingman for Elizabeth Gagnon for property located at 10 Hemlock Shore Dr, Map 22 Lot 72 in the RR3 Zone.

These applications include a Special Exception under Article VII Section 700:2 for a Seasonal Conversion and a Special Exception under Article VII Section 700:1a for the expansion and alteration of a Nonconforming Use. The variance applications are related to a proposed deck which will be located 4' from the side property boundary (requiring an 11' side setback variance). Article IV Section 400:4 requires a side setback of 15'.

Additionally, this proposed deck will be located 42' from the wetland (requiring a 58' wetland setback variance) because Article IV Section 410:8a requires a 100' setback.

Findings of Fact will be recorded and read by Member Leondires.

### **Abutters:**

Jason M. Moran, Derik Fritsch, Kimberly Hadrato, Gagnon, Elizabeth A. Trust, Gagnon Elizabeth A., Trustee (present); Steven and Tammy M. Tripodi; Nijhof Rev. Family Trust, Nijhof, Jeroen and Nijhof, Sally A. TTEE; Michael S. and Leslie N. Cronin; Vernon Dingman, V. J. Dingman Consulting (present)

### **Discussion:**

Mr. Dingman came before the Board to represent the applicants. Chair Saba explained to Mr. Dingman that there are four requests and each one must be addressed individually. All four requests may be presented at once, then the Board will go through the criteria for each item individually.

Mr. Dingman explained that this is an older lake lot with an existing camp which Ms. Gagnon has owned for quite a while. The applicant is requesting to remove the existing structure and replace it with a year-round home for her retirement. The applicant has obtained NH DES shoreline permits and NH DES septic permits. Copies have been provided. The proposed structure for the shoreline permit will be in the same footprint as the existing structure. One of the variances requested is for an added deck on the new structure. Decks on abutting properties may be larger and are also on the lake side.

The elevated gravel parking area is being removed and the applicant is proposing a porous pavement driveway down the side of the house to a garage under the proposed structure. It is a full replacement so it will have a full foundation. All State permits regarding square footage, permitted percentages of coverage and the septic system have been obtained.

The existing, deeded holding tank will be abandoned and filled in. It is on the abutting property. It was once shared by abutting properties. The applicant is proposing a new septic tank and leach field at the proper setback from the Lake. The existing well will be replaced with a drilled well. The applicant is attempting to improve the health and safety of the proposed structure and of the neighborhood by bringing it up to code.

Chair Saba asked if NHDES saw a plan with the proposed deck. Mr. Dingman explained that the stamped plan given to the Zoning Board is the septic plan. The plan approved by NHDES requesting the Shoreline permit showed the proposed deck.

Chair Saba stated that there is a steep slope from the street down to Hemlock Shore Drive and asked what the applicant is proposing for erosion control. Mr. Dingman explained that there will be hay bales and a double fence for erosion control. They are shown as the heavy dash line around the whole project on the plan.

Chair Saba asked if the proposed deck is encroaching any more than the existing structure. Mr. Dingman explained that it has the same setback as the sideline of the existing structure. The only impact is at the closest point where the retaining wall kinks. The opposite corner of the setback is 57.9 feet from the shoreline. There is an angle to the retaining wall so the closest point to the Lake is 42 feet. This is also the corner that is 4 feet to the existing property line. The applicant is attempting to maintain a replacement of the existing structure.

Chair Saba read a letter from the Conservation Commission into the record.

"I have received a copy of the plans for the teardown and reconstruction of the house located at 10 Hemlock Shore Drive. Although I understand that the new, year round house will be built on the same footprint as the current, seasonal camp a wetland setback variance is being requested because a deck is being added which is not currently there. Given the short fuse on this inquiry, the Conservation Commission has not been able to actually meet to consider the application or do a site walk. But given the heavily developed nature of the area, he does not have any concerns that this project will further degrade the lake or the surrounding wetlands. The proposed home and deck have no more of an impact as the abutting properties. I have discussed the matter with Denise Legault, an alternate member of the Commission who lives in the neighborhood and she agrees with this conclusion. Please let me know if you have any questions. Sincerely, Paul Wainwright, Chair Atkinson Conservation Commission"

Member Sullivan asked if the foundation is being replaced by in kind, 26 x 30. Member Sullivan also pointed out that the structure is cantilevered towards the water a little further than the foundation. Chair Saba pointed out that the applicant is not asking for any more relief.

Mr. Dingman replied that it is only one corner. He also explained that the two feet is a bump out only for the dining area and encroaches into the deck. The setbacks are proper, two feet of the deck is lost for the bump out.

Chair Saba stated that the foundation footprint is the same for the proposed structure, but the living space is being extended with an overhang. The relief requested is for an open deck, not for living space. Mr. Dingman asked if relief would be for the closest point of the deck. Chair Saba explained that the nonconforming use being requested is because the applicant is going up, not out.

Member Sullivan asked about the setback from high water. Mr. Dingman explained that the two sideline setbacks would not change. The bump out was just for the single corner where the dining room is being bumped out.

Chair Saba stated that the foundation shows one thing and your plan shows living space going two feet closer to the lake.

Mr. Dingman explained that DES saw a full set of plans. His understanding that the variance is for closest point to setback to the front of the deck. The front of the deck is not changing from where it is shown on the plan.

Vice Chair Connors asked if the proposed structure was blocking anyone's view. Mr. Dingman explained that it was not. The first floor of the house behind the proposed structure will be above the roof peak.

Member Sullivan asked if it would be a problem if the foundation followed the overlay for the cantilever. Chair Saba stated that the Zoning Board does not distinguish between an open deck or living space, but DES does.

### **Chair Saba Opened The Hearing To The Public**

Deputy Fire Chief Holigan explained that he looked over the plans but has not done a detailed review. He stated that Atkinson Fire Ordinances require two stories for maximum height. There is always discussion about whether the proposed structure is three levels or two stories and a walkout basement. Historically, walk out basements are not considered a story.

Chair Saba stated that the height is shown as 34 feet, 11 inches, but that is from the walkout. Chair Saba also stated that the Board has always considered an average height and since the front of the proposed house is much less, even if the highest point will be 34' 11", the average height will be less.

Deputy Fire Chief Holigan stated that the Board can consider the fact that the living space is quite low. It is difficult because the proposed structure is built into the hill.

Vice Chair Connors asked about the great room. Mr. Dingman explained that the basement area is being cut in half, half to be garage and half to be living space.

Member Sullivan stated that total building height is difficult to estimate at the lake. A variance for height would be necessary if the proposed structure is over 35 feet. Deputy Holigan explained that the Fire Department has a guideline and if the average height is too high, they would have to modify their plans.

Deputy Holigan explained that there is some judgment and noted that the overall height exceeds the ordinance height of two stories or 27 feet. The Fire Department is concerned when the attic is being built for storage or if the intent is to make it living space. He stated he could not give an answer at the hearing.

Deputy Holigan informed the applicant that the Fire Department has always required a man door into the garage. The proposed garage only has overhead doors. There is no other access.

Mr. Dingman explained that there is access from the garage into the family room and there is a sliding door.

Deputy Holigan again informed him that historically the Fire Department has required a second outside door. Chair Saba informed the applicant that they would need to go to the Fire Department in the building process. Deputy Holigan explained that he wanted to raise the concerns now.

Deputy Holigan also informed the applicant that fire resistant siding would be required on the side exposed to the neighbor. Also, the number of openings would need to be minimized.

Chair Saba requested comment from the public. There was no comment.

Chair Saba stated that the Fire Department gave a review and that when the applicant applies for a building permit, fire suppression and life safety may be issues. Also, the applicant may have to come back to the Board if there are height issues. Mr. Dingman explained that he spoke to the Building Inspector and was told that a variance would be required if the building exceeded 35 feet. Right now, it is 34 feet and so many inches.

There was no more discussion.

#### **Findings of Fact:**

- The plan is to remove the existing structure and replace it with a new structure with the same foundation footprint.

- They have their DES permits, septic and shoreland.
- The old septic will stay and be filled in.
- The well will be replaced with a drilled well.
- The Atkinson Conservation Commission feels the home and deck are no more of an impact than the abutters and have no concerns over the plan.
- There is a discrepancy between the foundation versus living space and there is an encroachment issue towards the Lake.
- There was discussion with regards to the height of the building, whether it is a two story or three story. There is no consensus as to whether the maximum height is 35 feet.
- Last, the Fire Department is requesting a man door in the garage. Chair Saba stated that issue would be addressed in the plan review.

### **Request for Special Exception under Article VII Section 700:2 for a Seasonal Conversion:**

A change in the status of a dwelling from a seasonal, recreational, or secondary home to a home which is intended to be used as a primary or year-round dwelling shall be considered a change in the use of the existing building according to the building code of the Town of Atkinson and shall require upgrading to state and local water supply and sewage disposal regulations in effect at the time of such change in status. Before any permits for structural alteration or change in use are issued by the Building Inspector and the Health Officer a special exception from the Board of Adjustment shall be obtained, the granting of which shall include, but not be limited to, compliance with the following requirements:

- a. A review by the Health Officer.
- b. Compliance with Sections WS300 of Atkinson's Water Supply and Sewage Disposal Regulations.
- c. Written consent by the New Hampshire Water Supply and Pollution Control Commission (NHWSPPCC).

Mr. Dingman stated that the applicant is proposing to eliminate a seasonal structure and proposing a new, year round home on the same footprint.

He addressed the criteria just read from Section 700:2 informing the Board that the health officer witnessed test pits, reviewed the plans and endorsed them to go to DES. By doing those two things, 700:2 a and b are addressed. The plans for the septic system were approved by the Town of Atkinson. NH DES reviewed and approved the replacement septic system design. Mr. Dingman gave the Board a copy of the approval from DES. Mr. Dingman explained that regarding 700:2c, approval by DES is considered written consent.

Chair Saba stated that acceptance of this conversion is contingent upon the fact that the applicant is proposing to rebuild the structure to current codes, there will be a new, drilled well and a new septic.

All members of the Atkinson Zoning Board of Adjustment agreed that the requirements of Section 700:2 have been met.

**Vice Chair Connors made a motion to approve a special exception under Article 7 Section 700:2 for a Seasonal Conversion on property located at 10 Hemlock Shore Dr, Map 22 Lot 72 in the RR3 Zone contingent upon the fact that the applicant is proposing to rebuild the structure to current codes, there will be a new, drilled well and a new septic approved by the Town Health Officer and NH DES. Member Wade seconded the motion. All in favor. Vote: 5/0/0.**

Chair Saba explained that there is a 30 day appeal, so that anything done prior to that is at your own risk.

**Special Exception under Article VII Section 700:1a for the expansion and alteration of a Nonconforming Use:**

- 700:1** Any nonconforming use, as that term is defined in Article III, may be continued in its present form except as provided herein:
- a. No extension, expansion, enlargement, or alteration of a nonconforming use will be allowed without the granting of a Special Exception by the Board of Adjustment. This Special Exception shall be issued in the form of a special permit which shall expire within one (1) year unless acted upon by the permittee.
  - e. A Special Exception shall be granted by the Board of Adjustment provided the following conditions are met for the non-conforming use:
    - 1) There is no diminution of the value of surrounding properties.
    - 2) It would be of benefit to the public interest.
    - 3) It would result in substantial justice being done.
    - 4) It would comply with Sections WS300 of the Atkinson Water Supply and Sewage Disposal Regulations

There were no comments from the Board.

Mr. Dingman informed the Board that the applicant is expanding by adding a second floor and changing the use from seasonal to year-round. These changes are covered by Section 700:1a. Enlargement of the proposed structure is mostly due to raising the height.

Addressing Section 700:1e he informed the Board that:

- There would be no diminution of value to surrounding property values, if anything it would enhance them by creating a more valuable structure to the neighborhood.
- It would be a benefit to the public interest because a structure is being created that would be more in tune with building codes, and especially the health issues.
- This has been before the Health Department and reviewed and approved application to meet WS300 regulations and NH DES has reviewed and approved the application and it has met their regulations.

A new, drilled well is being added. The health and safety of this property and the abutting properties is being improved by bringing everything up to code.

Chair Saba stated that a special exception has been granted to convert the property to year-round. Currently it is nonconforming. There is a question with the cantilever from the foundation.

Mr. Sullivan asked about the bump out on the right hand side from the street which is the relief side. The applicant explained that it is the fireplace. The deck is following the plane of the building.

Mr. Dingman explained that the foundation for the house is the same as for the previous structure. A birds eye view would show that there is a two foot cantilever of the roof hanging over the house, The roof line is only two feet from the property line. Chair Saba explained that the Board goes by the foundation, the roof line does not give living space.

The applicant explained that the foundation does not bump out, it is just the wooden structure for a gas fireplace and it is only on the first floor.

Chair Saba stated that the applicant shows two feet but only an extra 18 inches would be needed for the fireplace. Mr. Dingman was representing the foundation. The applicant informed the Board that the bump out can be eliminated.

Chair Saba stated that under 700:1a, the Board is discussing a new structure in the same footprint which is being raised, there is no expansion to the sides and it is recognizing a 2 x 13 foot expansion towards the lake.

Member Sullivan stated he sees a set of stairs from the proposed deck in the shoreline permit on the left but he does not see anything in the plan. Mr. Dingman explained that it meets the 15 foot setback requirement on the side. There is 20 feet on the side.

Chair Saba stated that the Board is not looking at any variance to the side or to the front of the proposed structure. There is a 2 x 12 foot added bump out of living space towards the lake.

Mr. Dingman informed the Board that he did not address the fact that the structure was closer due to the bump out in his request for variance, he was concerned about the outermost encroachment to the wetlands, which would be the deck. The Board agreed that the closest point to the lake is the deck and the relief if granted would sufficiently address their concerns.

All Board members agreed that the criteria for the special exception have been met.

**Vice Chair Connors made a motion to approve a Special Exception under Article VII Sections 700:1a and 700:1e for the expansion and alteration of a Nonconforming Use to the property located at 10 Hemlock Shore Dr, Map 22 Lot 72 in the RR3 Zone on the condition that there is no expansion to the proposed structure on either side affecting the setbacks, and recognizing a two foot by 13 foot extension of the living space towards the lake. Member Leondires seconded the motion. All in favor. Vote: 5/0/0. Unanimous.**

Chair Saba informed the applicant that there is a 30 day appeal period so any work done during that time would be at their own risk.

**Request to allow a variance under Article 4 Section 400:4 for an 11 foot side setback relief, to add a new, open air deck to be built four feet from the property line where 15 feet is required, at the closest corner of the retaining wall on property located at 10 Hemlock Shore Drive, Map 22, Lot 72.**

#### Discussion:

Mr. Dingman explained that this lot was created way before 1986. The existing structure parallels the easterly property line by 4.1 feet all the way. The proposed open air deck is a new structure that would be that same encroaching entity so that is why the side line variance is being requested to a new portion of the structure.

Chair Saba asked the Deputy Fire Chief if the Fire Department is concerned about the open air deck and he stated no.



There were no questions from the Board. Chair Saba requested to go through the criteria.

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

It will not be any closer to the lot line than the existing structure.

Discussion:

Chair Saba stated that the applicant is requesting relief for an open air deck. There are no living quarters and no roof above it. Although it is very close to the lot line, it is a continuation of what exists.

**All in favor. Vote: 5/0/0. Criteria 1 is approved.**

2. The spirit of the ordinance is observed because:

It will be the same as all abutting properties lots with decks on the waterfront sides of the homes all up and down this side of the street.

Discussion:

Vice Chair Connors stated that the ordinance is to protect against fire, ensuring the houses are not too close to each other. Mr. Dingman stated that there is over 60 feet to the abutting structure, which is a newer home, built in the 1980's.

**All in favor. Vote: 5/0/0. Criteria 2 is approved.**

3. Granting the variance would do substantial justice because:

It would allow the owner to have the same exact use as all abutters.

Discussion:

Chair Saba stated he does not see any benefit to the Town if it were denied.

**All in favor. Vote: 5/0/0. Criteria 3 is approved.**

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

The proposed new, year round home with all proper health amenities will increase all property values in the area by increasing the value of the proposed structure itself.

Discussion:

Vice Chair Connors stated you may not want to say it will increase the value but it will certainly not decrease the value, which is a good point. Chair Saba stated that he did a drive by and a new proposed dwelling under today's codes would definitely be an improvement.

**All in favor. Vote: 5/0/0. Criteria 4 is approved.**

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:

5a. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of the provision to the property because:

It is the same lot that was pre-existing, non-conforming and was created in the fifties. The existing structure and use were created before any ordinances in the Town were created.

Discussion: none

**All in favor. Vote: 5/0/0. Criteria 5a is approved.**

5b. The proposed use is a reasonable one because:

It will allow the owner the same use as all abutters.

Discussion:

Chair Saba stated that the proposed structure is not encroaching any further and it is an open air deck. It is reasonable to want an open air deck to sit by the lake.

**All in favor. Vote: 5/0/0. Criteria 5b is approved.**

**Member Leondires made a motion to approve the request to allow a new deck to be built four feet from the property line at the closest corner of the retaining wall where 15 feet is required, an 11 foot variance, at property located at 10 Hemlock Shore Drive, Map 22, Lot 72 under Article IV Section 400:4. Member Wade seconded the motion. All in favor. Vote: 5/0/0.**

Chair Saba informed the applicant that the variance to Article IV, Section 400:4 is approved. There is a 30 day appeal period and anything done prior to that is at the applicant's own risk.

**A request for variance to Article IV Section 410:8a to allow a new, open air deck to be built 42 feet to the water where 100 feet is required, a 58 foot variance, at property located at 10 Hemlock Shore Drive, Map 22, Lot 72 in the RR3 zone.**

Discussion:

Vice Chair Connors asked if there were an existing deck. The applicant informed him that it was a sun porch within the existing camp. Mr. Dingman explained that there are stairs going to the water instead of going to the street. It is 52 feet from the shoreline to the existing structure.

Member Sullivan stated that is a deck, it is a permeable surface, water will infiltrate. The whole project will incorporate some infiltration from the roof system so this is probably a betterment to the environment by the water's edge. Mr. Dingman explained that all roof runoff is being collected and treated in the drywell entities.

Chair Saba requested to go through the criteria.

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

The abutting properties have the same layout and are even closer to the water. 12 Hemlock Shore Drive is actually one foot closer. It is not different than any other abutting use.

Discussion:

Chair Saba stated that the variance is to protect the wetland. The Conservation Commission has looked at it and they are not showing much concern. Mediation is taking place. Stormwater management is taking place. It is an improvement.

**All in favor. Vote: 5/0/0. Criteria 1 is approved.**

2. The spirit of the ordinance is observed because:

It would give the owner the use of the property as requested and as all the abutters have.

Discussion:

Chair Saba explained that the spirit of the ordinance is to protect the wetland and there are provisions to do that.

**All in favor. Vote: 5/0/0. Criteria 2 is approved.**

3. Granting the variance would do substantial justice because:

It would allow the owner use of the property as they want to enjoy it.

Discussion:

Chair Saba asked what the Town would gain by denying the request.

**All in favor. Vote: 5/0/0. Criteria 3 is approved.**

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

As previously stated, a new, year-round home will increase the value of this property and if not improve, will not diminish the values of the abutting properties.

Discussion:

Chair Saba stated an open deck going to the wetland is in character with the abutting properties. It makes sense to have a deck.

**All in favor. Vote: 5/0/0. Criteria 4 is approved.**

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:

5a. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of the provision to the property because:

As previously stated this is a pre-existing, non-conforming lot which was created before existing regulations. The applicant is trying to make an equitable adjustment today.

Discussion:

Chair Saba agreed that the special conditions of the lot are that it is tight, it is pre-existing, and it is sloped. The stormwater management and treatment of rainwater proposed with the new septic system is more in tune with protecting the wetland.

**All members in favor. Vote: 5/0/0. Criteria 5a is approved.**

5b. The proposed use is a reasonable one because:

It will allow the owner the same use as all abutters. The abutters have the same open air decks.

Discussion:

Chair Saba stated that it is a reasonable use to be able to enjoy access to the water and observe the water.

**All in favor. Vote: 5/0/0. Criteria 5b is approved.**

**Member Leondires made a motion to approve the request for variance to Article IV Section 410:8a to allow a new, open air deck to be built 42 feet to the closest water edge, a 58 foot variance where 100 feet is required, at property located at 10 Hemlock Shore Drive, Map 22, Lot 72 in the RR2 zone. Vice Chair Connors seconded the motion. Vote: 5/0/0. Unanimous.**

Chair Saba reminded the applicant that there is a 30 day period and any development during that period will be done at the applicant's risk. He also informed the applicant that approval was granted without the fireplace and that height has not been addressed and may need to be.

**Vice Chair Connors made a motion to close the public hearing. Member Leondires seconded the motion. Vote: 5/0/0. All in favor. The public hearing is closed.**

**Member Wade made a motion to adjourn. Member Sullivan seconded the motion. Vote: 5/0/0. All in favor.**

**The meeting was adjourned at 8:42 PM.**

The next meeting of the Atkinson Zoning Board of Adjustment will be May 10, 2023.