

ATKINSON ZONING BOARD OF ADJUSTMENT

**Town of Atkinson
21 Academy Avenue
Atkinson, New Hampshire 03811
Public Hearing Meeting Town Hall
Wednesday, January 10, 2024**

Members Present

Glenn Saba, Chair
Bob Connors, Vice Chair
Arthur Leondires
Scott Sullivan
Guy Wetherbee

Others Present

Vernon Dingman, V. W. Dingman Consulting
David Holigan, Chase Island Associates

Workshop 7:00 PM

Approval of Minutes:

Vice Chair Connors made a motion to approve the minutes of the December 23, 2023 meeting as amended. The motion was seconded by Member Leondires. All members of the Atkinson Zoning Board of Adjustment 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.

Public Hearing – 7:30 P.M.

Chair Saba opened the public hearings at 7:30 PM, January 10, 2024.

- 1. Application by Vernon Dingman for Michael R Damphousse Family Trust, Michael Damphousse, Trustee for Special Exception under Article VII Section 700:2 to allow conversion of a seasonal home to year-round status on property located at 13 Stickney Rd, Map 23 Lot 20, in the RR3 Zone.**

Abutters:

Herbert R. and Dorothy Lippold, Kevin W. and Susan Nimmo, Damphousse, Micheal R. Family Trust, Micheal Damphousse, TTE, Damphousse, Linda J. Rev. Trust, Michael & Linda Damphousse, TTEE, Robert and Carol Kolifrath, Diane M. Barrett, Big Island Pond Corporation, Vernon Dingman, V. W. Dingman Consulting (present)

Discussion: Mr. Vernon Dingman came before the Board for the applicant. Chair Saba informed Mr. Dingman that he did a drive by and it seems that some improvements were done on the property. Mr. Dingman informed him that the applicant has replaced some windows

and made some other improvements. He has drawn permits from Brian Boyle, the Building Inspector. This was before the applicant decided he wanted to convert the property to year-round. Chair Saba then stated that he noticed the windows were changed and he believes they do not meet egress.

Chair Saba requested Mr. Dingman to go through the application.

Mr. Dingman stated that one of the conditions the ZBA makes is that Code Enforcement will have to confirm that all changes present and future meet the part of the special exception condition requiring that the structure meets code. It is between Mr. Damphousse, his builder and Code Enforcement that the conditions of the special exception are met.

Mr. Dingman informed the Board that there is a NHDES approved septic design, there will be a new well installed in conjunction with the septic. At present the applicant has decided to follow proper procedure, get before the Board and get approved plans in place.

Chair Saba requested a full sized set of the septic plan for the folder. Mr. Dingman gave the Board members copies of the septic plan and State approval. The applicant has approval for a new well in conjunction with the septic. There will be a new, drilled well installed in front. The applicant does not have shoreline approval. Mr. Dingman explained that septic systems can be replaced without shoreline approval because it is a health issue, not a construction issue.

Mr. Dingman further explained that State shoreline approval will not be required because the footprint, the location and structure are not changing. He also stated that anything that will be done, for example new windows, will be contained within the existing structure. Mr. Dingman stated that sometime between when the structure was built as a camp in 1910 and the time Mr. Damphousse bought it, improvements were made. For example, at one point, a full foundation was put underneath. Now Mr. Damphousse wants to renovate it correctly. Chuck Matheson, General Contractor, has been hired by the applicant to bring the structure into compliance. There are no plans to change the size of the structure.

Vice Chair Connors asked if Chuck Matheson put in the windows. Mr. Dingman replied that he cannot attest to who installed the windows. He has met with the contractor who he believes is presently hired by the applicant. The structure is 26' by 24' feet or 624 square feet, a story and a half. Member Sullivan pointed out that the requirements of a year round home are the structure must be a minimum 800 square feet at grade level, so a variance would be needed.

Chair Saba agreed and asked what the required setback is for the septic. Mr. Dingman replied that it has to be 10 feet from the lot line but since Mr. Damphousse owns the abutting lots a setback is not required. Vice Chair Connors asked if it had to be recorded and remarked that it could be an issue if the applicant tries to sell the property. Mr. Dingman replied that he believes an exception is in the NHDES approval.

Chair Saba returned to the minimum square feet requirement and stated that the Town has a minimum size requirement for the living space for year round residences. Member Sullivan stated that the first floor must be 800 square feet and the second floor can be 650 square feet.

Chair Saba asked if anyone in the audience would like to speak. No one spoke. The Board returned to reviewing the application.

The Board reviewed the plan and the size of the lots. Mr. Dingman informed the Board that he downloaded the copy of the septic design with the State approval stamp from the NHDES site.

Member Sullivan read from Atkinson ZBA Regulations

SECTION 650 FLOOR AREA

650:1 Every building to be used as a residence shall have a minimum ground floor area of eight hundred (800) square feet outside measurement, and a floor area, exclusive of cellar, of six hundred (600) square feet for each additional story.

Mr. Dingman asked if Section 650 would apply to an existing structure that is being renovated. Member Sullivan replied that previous applicants had to request relief in addition to the special exception.

Member Sullivan asked to discuss the conversion and asked if the lack of square footage would be an issue during the building permit process. Chair Saba responded that he is not comfortable with approving a plan knowing that it does not comply with another ordinance. Vice Chair Connors stated that the Board needs a plan with the dimensions so it can approve relief and then go to the next step which would be the special exception. The Board does not have the dimensions for the structure. Member Sullivan stated the Board would ordinarily approve a plan for the structure first then the special exception. Chair Saba stated that the Board does not have a stamped plan. The Board does not know where the structure sits on the lot in relationship to the lot lines. He informed Mr. Dingman that it seems that survey work would have to be done. When the applicant comes back, the Board will need to know the setbacks to the lot lines and show that the plan meets Section 650:1 or request relief. The Board needs these two things for it to go forward.

Mr. Dingman asked if he could request a continuance on the special exception and file for a variance. He asked if electrical, plumbing and other construction need to be brought up to code since it is a conversion. Chair Saba responded that it is his understanding that when a building is converted from seasonal to year-round, the structure and all systems need to be brought up to code.

Deputy Chief Holigan stated that fire safety regulations and building regulations would have to be met for a conversion. He would like to clarify that the fire department would know what has to be done to issue a permit. He stated that Stickney Road has inadequate access and inadequate water supply in case of a fire. He believes that a seasonal dwelling being converted to year round must be brought to today's codes, whatever the building inspector requires. Member Sullivan stated that this has been a seasonal cottage and some minimal safety standards have to be enforced. Fire Chief Holigan stated that if the structure were gutted, it would have to be brought up to code. He asked about the 50% rule and if it was necessary for a permit. Vice Chair Connors stated that it would only make sense to bring the structure up to code if it is going to be a year round residence. Chair Saba stated that at a

minimum, egress from the bedroom windows would be needed. Camp sized windows would not be allowed. Unfortunately, the windows just installed are brand new. He does not know how many times permits have been pulled for the structure to change something. That is circumventing zoning. Deputy Chief Holigan stated that it was common practice in the old days but the laws were changed. Chair Saba stated that the Building Inspector would make the decision on what needs to be brought up to code for plumbing and electrical and the Fire Department would handle life safety. Chair Saba stated that the Board cannot make a decision on the application request because they do not have the information in front of them. There is an issue on the size of the building and setbacks,.

Chair Saba suggested the applicant continue the application for 30 days and talk to the building inspector to see what he requires.

Mr. Dingman agreed to continue for 30 days. Chair Saba stated that for the structure to be approved as year round, the building inspector must sign off. It does not have a CO because it is seasonal.

Vice Chair Connors made a motion to continue for 30 days or to the next meeting of the Atkinson Zoning Board of Adjustment on February 14, 2024, the Application by Vernon Dingman for Michael R Damphousse Family Trust, Michael Damphousse, Trustee for Special Exception under Article VII Section 700:2 to allow Conversion of a Seasonal home to year-round status on property located at 13 Stickney Rd, Map 23 Lot 20, in the RR3 Zone. Member Sullivan seconded the motion.

Vote: 5/0/0. All in favor. The application is continued.

2. Applications for 2 Special Exceptions by Vernon Dingman for Patricia & Lincoln Heffner for property located at 10A Chase Island Rd, Map 22 Lot 41 in the RR3 Zone. These applications are a Special Exception under Article VII Section 700:2 to allow conversion of a seasonal home to year-round status and a Special Exception under Article VII Section 700:1a&e for the expansion and alteration of a Nonconforming Use.

Abutters:

J & J Realty Trust, Foley, James & Jean TTEE, Robert J. and Jennifer D. Wasselchuck (present), Chase Island Assoc. (present), Lincoln and Patricia J. Heffner, Lorraine A. Ladderbush, Nelson J. Rocha, Big Island Pond Corporation, Vernon Dingman, V. W. Dingman Consulting (present)

Discussion:

Chair Saba stated that he did a drive by and could not find the existing house. Mr. Dingman explained that the existing home was removed. Deputy Chief Holigan stated that he believes

he is an abutter as well as representing Chase Island Associates. He also stated that the tax maps are way off. Mr. Dingman agrees. Deputy Chief Holigan stated he would represent Chase Island.

Mr. Dingman explained that it is the property with all the stakes and flags. It has been surveyed completely. He has setbacks of the property lines, dimensions of the buildings, and floor plans from their architect. Chair Saba asked if it was an expansion or a rebuild. Mr. Dingman replied It is a slight expansion, the former structure was 29 by 23 feet and the proposed structure is 36 by 26 feet. Chair Saba stated that it is a lot of record, there is no house there, if the set backs are met, the applicant would be able to build on the lot. Mr. Dingman agreed, he said that the new setbacks are less than the previous setbacks. The closest point for the previous structure was 11.6 feet. The proposed structure at the closest point is 16.52 feet. From the street on the south it is 34.3 feet, the back is 41 feet and to the lake it is 5.8 feet. The previous structure was 4.5 feet from the lake. Shoreline requires some improvement. Mr. Dingman has a shoreline permit and gave a copy to the Board.

Chair Saba stated that Section 400:4 states in all residential zones, no building shall be located closer than 30 feet to the right of way line or closer than the average setback whichever is greater. This building is 34.3 feet. In no case should a building be located more than 15 feet to the sidelines or real lot line. Vice Chair Connors stated that all the setbacks have been increased and Mr. Dingman agreed. Chair Saba stated that he thinks the applicant needs a variance, not an exception. It is not an expansion of a non conforming. Mr. Dingman stated he is requesting two special exceptions, the applicant is going for a conversion and is expanding an existing use by enlarging. Member Wetherbee stated that without the structure there, the applicant may have missed the opportunity for expansion of an existing use. Member Sullivan stated that the applicant has an as-built for the existing building. The prior structure was 1.5 stories and 11.6 feet from the lot line on the north side.

Member Wetherbee stated that the previous building was a seasonal property, not a home. With it gone, it is just an empty lot. Chair Saba stated that an expansion on a nonconforming means something was added to an existing structure. That structure is gone. Mr. Dingman stated that other projects have all been tear downs. He cited Gagnon, but it was not torn down before. Vice Chair Connors stated that this is the first project where the applicant tore down the existing structure then came to the Board. With every other project, the applicant came to the Board first. Mr. Dingman assured the Board he did not tell the applicant to tear down the existing structure. The Board discussed other projects that were tear downs. Chair Saba stated that the applicant needs a variance for the setbacks. Vice Chair Connors stated that the applicant is expanding the setbacks. Mr Dingham stated he is over 15 feet everywhere other than to the lake. The closest sideline is 16.5 feet. Chair Saba stated that if the applicant does not need a setback variance, he is back to an expansion of what was there because it is nonconforming and he is making the proposed dwelling larger. Chair Saba stated he believes that the setbacks are satisfactory.

Chair Saba stated that the proposed dwelling is 5.8 feet to the lake and asked Mr. Dingman if he has State approval. Mr. Dingman stated that the applicant has shoreline approval. The proposed dwelling will be further from the lake than the previous one and shoreline approval requires some improvement. Vice Chair Connors stated that the only thing that should be before the Board is expansion and alteration of a nonconforming use. He questioned if there is something there to convert. Chair Saba stated that the Board has to grant a change from seasonal to year round. Mr. Dingman agreed that the lot is classified as seasonal so there has to be a conversion.

Member Leondires asked about water and sewer. Mr. Dingman stated that there is a proposed new drilled well and new Clean Solutions septic system. He was hoping to get septic approval from the State today, but He had to wait for shoreline approval before he could apply to NHDES for septic approval. The town inspector has approved it.

Chair Saba asked if there were more questions before he opened the hearing to the public. Chair Saba asked if anyone wanted to speak on behalf of the project.

Dave Holigan, representing Chase Island Associates appeared and stated that he has quite a few questions. Mr. Holigan stated that this area is very odd, looking at the tax map, it shows a 50x15 piece that belongs to Chase Island Associates. It is actually 50x15x200. The tax map is wrong. That lot should be 50x50x200 feet.

Mr. Holigan stated that the tax map shows the road as 50 feet from the lot, but the site plan presented by Mr. Dingman shows that the road basically touches the drill hole. Mr. Dingman showed Mr. Holigan on the site plan that the drill hole is in the retaining wall in the front. Mr. Dingman then pointed out the edge of pavement on the site plan. Mr. Holigan stated that is incorrect, it is a tax map thing.

Mr. Holigan then stated that the deeds on the properties in this location are very odd because most of them go under water. There are multiple claims to the flowage rights. In this area, the flowage rights were never granted. The small part of the property being discussed was under the lake. The water now rises and falls with the lake on that portion of the property. The outline was based on the survey of the plot and it does match the deed. Vice Chair Connors asked if Mr. Holigan is suggesting that the existing dug well sometimes goes under water. Mr. Holigan stated no, it is just green in the corner. Mr. Dingman stated that there is a low point in the southeast corner of the property. He is not disputing that if it is wet enough that water will collect there.

Mr. Holigan stated that the original building was 667 square feet according to the tax card. The tax card does not show the deck shown on the plan which was supposedly 4 feet from the water. Mr. Holigan stated it was originally flagstones. Mr. Dingman stated that there was a tiered deck on the front of the house and he has pictures. Mr. Holigan questions that the proposed dwelling will be 5 feet from the water. The width of the deck has to be added. Chair

Saba informed him that the State granted shoreline approval. Mr. Dingman explained that part of the submission to the State is providing pictures of the property all the way around the structure and he can provide them to Mr. Holigan. Mr. Holigan stated that this deck is changing to a screened porch, a much different use than a deck.

Mr. Holigan also stated that the previous 660 square foot structure is being replaced by a 936 square feet, two story structure with a basement, a huge change. He believes it is way over utilization of this lot. He feels the applicant should have kept the original footprint, although two stories are usually allowed. The whole view of that side of the lake will be different. The proposed dwelling would change it from a colloquial shoreline to a gigantic tall house. Mr. Dingman stated that most of the structures on Chase Island are two story, the one directly abutting across the cove and the one that is beside it are. Mr. Holigan stated that if you go further down the shoreline the structures are much smaller.

Chair Saba asked about the size of the lot. Mr. Dingman replied that the lot is 9200 square feet. Chair Saba stated that the lot is not that small. Mr. Holigan replied that it is small if that piece of the lake is subtracted from the size. Chair Saba asked if the piece in question could be considered a wetland because it gets flooded. Mr. Dingman replied that it does not meet the minimum high intensity definition of 500 square feet of contiguous wetlands and wetlands vegetation is needed. The area in question is about 300 square feet in the corner of the lot. It is a kettle hole created by the construction of the road. This hillside used to shed to the lot.

Mr. Holigan stated that a lot of trees were cut. Mr. Dingman agreed that all the trees in the green area on the plan have to be removed. Mr. Holigan stated that they already were removed. Chair Saba stated that a lot of work was done to the site before the applicant requested a permit or came before the Board. Mr. Holigan stated that the trees were supposedly diseased, but they went on a truck to be cut into lumber. Mr. Dingman informed him that it is noted on the plan that the trees to be cut were for construction or due to disease.

Chair Saba asked if there is a planting plan. Mr. Dingman showed him a strip along the front edge of the site where junipers were to be planted as mitigation to the six trees that were removed, there will be a wall of green along the water for erosion control. Chair Saba noted that the applicant was replacing mature trees with low growth juniper. Mr. Dingman pointed out all the trees in green that are still existing and explained the point counting system required by the State, the applicant meets the number of points required by the State. Chair Saba agreed. Mr. Dingman gave Mr. Holigan a copy of the State shoreline permit and informed him that it is in the file.

Chair Saba asked Mr. Holigan if he had anything further. Mr. Holigan stated that the applicant is taking an open deck that was 4 feet from the lake and replacing it with an enclosed porch, which would make the structure bigger. He remarked that his neighbor had to cut 4 feet from his deck and asked why the deck could not go in the back of the house instead of the front. He asked why the applicant is proposing more structure toward the water. Mr. Dingman

explained that the proposed main structure was moved back to allow for the other entities to still not be closer to...(the water)...Mr. Holigan stated that the proposed structure would be 5.8 feet from the water. The deck on the previous structure was 4.8 feet from the water, but the previous house was much farther away. Mr. Dingman replied that an enclosed deck is proposed.

Chair Saba asked if the abutters were notified when he applied to the State for the shoreland permit. Mr. Dingman replied yes. Mr. Holigan replied that he did not receive notification and he does not believe Chase Island Associates was notified either. Mr. Bob Wasselchuck, 12 Chase Island, informed the Board that he lives next door and notification of the present hearing was the first he received.

Chair Saba stated he is not sure why notification is not getting done. Mr. Dingman explained that the Town requires setback for notification whereas the State requires that a party has to be a direct abutter. Two cove areas separate the applicant's property from property owned by Mr. Wasselchuck and Chase Island Associates. Chair Saba asked Mr. Wasselchuck if he were a direct abutter and Mr. Wasselchuck stated he thought so. Chair Saba asked Mr. Wasselchuck if his land touched the land owned by the applicant without any water in between. Mr. Wasselchuck replied that his property does not touch the property of the applicant, but he believes property owned by Chase Island Associates does. Mr. Dingman stated that Town regulations state that anyone around the proposed site is an abutter, but the State says an abutter has to be a direct abutter. Chair Saba agreed. Mr. Dingman informed the Board that he had to send in a copy of the tax map and the certified notices and copies are stapled into the clients packet.

Chair Saba asked Mr. Holigan if he had further comment. Mr. Holigan replied no. Chair Saba asked for comment from the Board.

Member Sullivan remarked that from listening to the conversation, he would have a different opinion of the use or how to identify part of this building, whether it is a deck or an enclosed porch. Member Sullivan stated that the Board has seen applications for a deck, which is for recreational use and is a permeable structure. Chair Saba stated that the Board has been very relaxed about granting variances for a deck because it is an open air structure, but this is an enclosed porch. Member Sullivan stated that the previous structure appears to have had an open air deck. Mr. Dingman agreed and stated that he is here to discuss what the applicant would like to build. Obviously, the proposed structure is bigger. The previous structure was 667 square feet and the proposed structure is 936 square feet. Chair Saba asked if the previous structure was one story. Mr. Dingman stated a story and a half. Mr. Dingman stated that it had a dormer on the back. Mr. Dingman stated that he has around 100 pictures of the property and can provide them to the Board. Chair Saba asked to see the pictures. Mr. Dingman did not have them available but said he would get them.

Chair Saba stated that in order to get from seasonal use to year round, the Town criteria of 650 square feet must be met, so the expansion is warranted to a point, but looking at this, the question the Board has to determine is if it is reasonable. The applicant is also expanding from an open deck to a porch with a roof. The Board would require more detail for that. Mr. Dingman stated that the detail is in the architectural drawings. Chair Saba is summarizing what the Board is discussing. Mr. Dingman stated that all the information including the views is in the architectural package.

Vice Chair Connors stated that the porch proposed by the applicant is similar to the three season porch in back of his house which is an enclosed room.

Member Sullivan stated that he is looking at the building plan, and it shows that a person can travel down from the deck to the porch which goes towards the lot line set back and is shown as 15 feet. The side illustration does not take the south elevation into account. If you walk out to the porch in the rear, you are at grade level.

Chair Saba stated that there is no full basement. Member Sullivan is looking at Page A1 of the site plan on the north side and he sees a screened porch with a landing and risers going down to the ground. Chair Saba commented that Mr. Dingman informed the Board that the porch was at grade. Mr. Dingman stated that he would question the architect if the landing was needed because the porch does come out at grade on that side. Member Wetherbee stated that there were three steps up, which is 28 inches and another step up from the screened porch into the family room so that is another 8 inches. Member Sullivan stated that looking at the setback proposal, it is the corner of the porch, but from the plan, it seems that the porch and stair are closer than sixteen feet to the setback. Member Sullivan also stated that it is in the Building Code that stairs must be counted in the set back. Member Wetherbee stated that looking at Page A1 on the south, if there is a deck there must be some elevation. Mr. Dingman informed the Board that it comes down to the slope for the leach field and pointed out the extension of the stairs. Member Sullivan stated that it is not carried through in the plan, but it is illustrated on Page A1, the first page of the construction plan.

Chair Saba asked Mr. Wasselchuck if he would like to speak for the record. Mr. Wasselchuck replied, no, that Mr. Holigan is the representative for Chase Island Associates. Chair Saba stated he wanted to confirm.

Member Sullivan asked if a grading plan was necessary to show whether or not there is a porch or a deck. Chair Saba agreed that it might be necessary because if the Board is going to entertain the size, the proposed structure is a lot bigger than the previous one. The Board has heard concerns from the Association. He would like more detail as to what is really being built. Mr. Dingman stated he could confirm with the architect if there is an at-grade landing instead of stepping onto flagstones and add it to his drawing with setbacks if the Board requires it. Chair Saba asked if the State viewed screen porches and open decks as the

same. Mr. Dingman replied that the NH DES Shoreland Program views it as anything that is a hard structure.

Mr. Dingman stated that the previous structure was 667 square feet, there was a 521 square foot deck, and 128 square feet for the shed. For post development, the proposed home is 936 square feet, the deck is on one side now and is going from 521 square feet to 380 square feet, the shed is the same at 128 square feet and now there is a 260 square foot porch. The preconstruction total lot coverage was 14%, and total lot coverage with new construction will be 17.6%, so lot coverage has increased by 3.6%.

Mr. Dingman stated in the shoreline district, 0-50 feet is the primary zone, 50-150 feet is the working zone, and from 150 feet to 250 feet is jurisdictional. Within the first 150 feet, further infringement is not allowed and the State prefers to show improvement. In this case, Mr. Dingman has set the house back 1.5 feet.

Vice Chair Connors stated that the applicant is going from a recreational use deck to an impervious structure that is 5 feet away. Mr. Dingman pointed out the treatment collection point downspouts that go into treatment swales. The previous structure did not have any gutters, it just shed. Chair Saba stated that the swales and gutters would fill quickly. Mr. Dingman stated that it still gets filtration and goes into a gutter system. Chair Saba stated that this Board does not address treatment.

Chair Saba is concerned that this lot is being filled with a structure bigger than what was there previously. He would like to see pictures. He would like to discuss the roof line of the porch that is close to the lot line. It is changing the character of the area. This entire bend is tight, he understands the abutters point. Mr. Dingman asked if it was esthetic. Chair Saba stated it was not esthetic, he is concerned about line of sight. Mr. Dingman stated that the proposed structure would not be in any line of sight. Chair Saba asked if there is a plan that shows all the roads.

Mr. Dingman pointed out the lot and the road and showed that no view was being impeded. There is 42 feet from the proposed structure to the edge of the pavement. Chair Saba stated it was going across someone else's land and asked if it was abutters property. Member Wetherbee informed the Board that the area in question is part of Chase Island Association property. Mr. Dingman stated that it is part of the roadway, but it is not paved. Mr. Holigan showed the Board an aerial view of the location. Mr. Holigan showed that the lot line is next to the road and is only 8 feet from the pavement.

Member Wetherbee stated that this is a substantial change. He has done some calculations, the original cabin was not more than 12-14 feet in height and what is proposed is over 32 feet in height if it is at grade and if it is not at grade as it looks like in the construction plans, it could be 36 feet in height, a big structure.

Chair Saba informed Mr. Dingman that the Board is asking for more information as follows:

- Pictures
- Exact layout of the proposed building with all structures
- Grading plan
- Accurate lot lines on the plan
- Plan pages conform
- A Demolition permit – Mr. Holigan stated that there was a demolition permit
- Correct form for the application – Mr. Dingman used the appeals form and the Board needs to know that the application is not an appeal
- State approval for the well and septic
- A stamped surveyor plan for the lot at present
- A plan from the surveyor showing the previous structure

The Board discussed the survey. Mr. Dingman explained that Mr. Lavelle did a survey. Mr. Dingman has located the boundary points and tied it to the boundary survey done by Lavelle and Associates. He will contact Mr. Lavelle for their survey.

Chair Saba requested a survey plan of the lot at present with setbacks as well as the survey done by Lavelle and Associates.

There was no more discussion. Mr. Dingman requested a continuance. Chair Saba requested a motion.

Member Leondires made a motion to allow continuance for 30 days or until the next meeting of the Atkinson Zoning Board of Adjustment on February 14, 2024 for Applications for 2 Special Exceptions by Vernon Dingman for Patricia & Lincoln Heffner for property located at 10A Chase Island Rd, Map 22 Lot 41 in the RR3 Zone. These applications are a Special Exception under Article VII Section 700:2 to allow Conversion of a Seasonal home to year-round status and a Special Exception under Article VII Section 700:1a&e for the expansion and alteration of a Nonconforming Use. Vice Chair Connors seconded the motion. Vote: 5/0/0. All in favor.

Chair Saba stated that the public hearing is still open.

- 3. Application for Variance by Vernon Dingman for Jaguar Realty Trust, George Kalil, Trustee from Article IV Section 410:8b to allow the construction of detached garage 53.8' from the Wetland instead of the required 100 feet (46.2' variance) on property at 18 Chase Island Rd, Map 22 Lot 33 in the RR3 Zone.**

Abutters:

Guy and Karen LaPlante, Mildred Reynolds, Bilodeau, Scott & Gretchen Living Trust, Bilodeau Scott & Gretchen, TTEE, John T. Mason, Jr., Chase Island Assoc. (present), Jaguar Realty Trust, Kalil, Teresa TTE, Baker Living Trust, Baker, Blake and Donna TTEE, Big Island Pond Corporation, Vernon Dingman, V. W. Dingman Consulting (present)

Discussion:

Mr. Vernon Dingman appeared before the Board for the applicant. He informed the Board that when it originally approved a special exception for this site, discussing the proposed garage was tabled. It would be a little less than 54 feet from the high water mark where 100 feet is required. Mr. Dingman went to the Conservation Commission on December 27, 2023. Mr. Dingman informed the Board that the proposed garage is to store the applicant's boat, his tractor and a car.

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

" At our regular meeting on December 27, 2023, Vern Dingman presented to us a plan for the property, which showed a proposed garage 53.8 feet from a wetland where 100 feet is required by Town zoning.

After a short discussion, we came to consensus that we have no issues with the location of the proposed garage...."

Chair Saba requested Mr. Dingman speak.

Mr. Dingman stated that the proposed garage was part of the original shoreline permit. There is a proposed bathroom in the garage which already has DES septic approval. It is not for any other use except for the convenience of the applicant when he is working in the garage. It is over 30 feet to any other property line. It is also included in the amended shoreline approval. There is nowhere on the lot where it could be 100 feet to the lake.

Vice Chair Connors stated that it is a large garage, 30 x 34 or 1020 square feet. He assumes it is 1 level. Mr. Dingman stated that he thinks the applicant is proposing an office on the second floor.

Chair Saba asked for plans. Mr. Dingman stated that he was given some rough plans but they are being revised because of the approval from NHDES Shoreland. Member Sullivan remarked that office space or finished space is not mentioned in the application for variance. Mr. Dingman replied that the set of plans depicts it as an office/shop.

Vice Chair Connors asked about past decisions by the Board regarding use of second floors in garages. Chair Saba informed him that the 15 foot restriction is not usually enforced but the

Board has never allowed a finished second floor with plumbing in a garage because of Atkinson regulations regarding detached Accessory Dwelling Units (“ADU”).

Chair Saba further stated that the Board has been strict on how variances for garages are approved. The Board wants to limit the height, it wants to see what is proposed for the second floor, normally there is no plumbing in a garage. With plumbing and a second story, the Board has no control of what goes on. The Town does not allow detached ADUs. Chair Saba asked about the ADU over the garage attached to the house. He stated that it should have been shown on the initial request for variance. He stated that the ZBA no longer reviews applications for ADUs but does not remember a request to add a second story to the attached garage. Mr. Dingman stated that the ADU was added after the initial meeting and it is for the applicant’s father-in-law. Chair Saba stated that it was an expansion of a nonconforming use. Mr. Dingman explained that the footprint is no larger than the footprint for the original garage.

Chair Saba opened the hearing to the public.

Mr. Dave Holigan stated that Chase Island residents in general do not have an issue with the garage. Some concern was expressed that the second story become a living space. With a bathroom, it would be easy for the space to be used for guests. As far as the garage, that end of the island is quite dense so an additional structure would not have a significant impact. Mr. Holigan stated that it is close to half an acre. Mr. Holigan also stated that Chase Island Associates concerns mirror those of the Board, if the proposed structure is really a garage. Mr. Dingman stated that he would speak to Mr. Kalil. Vice Chair Connors stated that he is concerned by what he is seeing in the drawing especially since the applicant has already built an ADU above the other garage which the ZBA was unaware of.

Mr. Holigan stated that as Deputy Fire Chief, he is informing the applicant that if the second floor is to be used as an office or as living space then a sprinkler system would have to be installed to meet fire code. Member Sullivan stated he would like the details in the application to reflect what is on the plan. Chair Saba would like a cross section plan of the second floor.

Mr. Dingman stated that he would speak to Mr. Kalil.

Chair Saba asked if he would like a continuance and Mr. Dingman requested a continuance.

Member Leondires made a motion to allow continuance for 30 days or until the next meeting of the Atkinson Zoning Board of Adjustment on February 14, 2024 of an Application for Variance by Vernon Dingman for Jaguar Realty Trust, George Kalil, Trustee from Article IV Section 410:8b to allow the construction of detached garage 53.8’ from the Wetland instead of the required 100 feet (46.2’ variance) on property at 18 Chase Island Rd, Map 22 Lot 33 in the RR3 Zone. Vice Chair Connors seconded the motion. Vote: 5/0/0. All in favor.

Member Leondires made a motion to close the public hearing. The motion was seconded by Member Wetherbee. Vote: 5/0/0. All in favor.

Member Sullivan made a motion to adjourn. The motion was seconded by Member Leondires. Vote: 5/0/0. All in favor.

Chair Saba adjourned the January 10, 2024 meeting of the Atkinson Zoning Board of Adjustment at 8:59 PM. The next meeting will be at February 14, 2024 at 7:00 PM in Atkinson Town Hall.