

**Town of Bartlett
Zoning Board of Adjustment
Public Hearing – October 6, 2015**

Members present: Chairman Richard Plusch; Peter Pelletier; Helen Crowell; David Shedd; Alternate Norman Head. **Members absent:** Julia King

Also present were Peter Attenborough; Robert Tafuto; Fred Flippen; Peter Gagne; Mark Spaulding; Jessica Spaulding.

Continuation of Public Hearing - File 2015-01:

Applicant:	AJ White Family Trust (Peter and Diane Attenborough)
Location:	12 Old Towle Road, Intervale, NH
Bartlett Tax Map:	Tax Map 1TOWNH, Lot 138R3R
Purpose:	A variance or special exception to allow the addition of a deck to an existing grandfathered residence which does not meet front setback requirements.

Zoning Ordinance Section: Article X, Section B-2 or Article XI, Section F.

Chairman Plusch called the meeting to order at 7:30 pm by announcing the case numbers, name of applicants, and purpose of the applications. He advised the meeting notice for these applications was published in the Conway Daily Sun on September 25 and October 6, 2015 and publicly noticed at the Bartlett, Glen, and Intervale post offices, as well as the Bartlett town hall.

1. Continuation of Public Hearing: AJ White Family Trust: This meeting had been continued from a public hearing held on August 31, 2015. Peter Attenborough presented, and asked if the board would like him to repeat what had transpired at that hearing. The Chairman said board members had read the minutes of that meeting and were comfortable with Mr. Attenborough proceeding. Mr. Attenborough said the public hearing had been continued to this meeting to allow him time to consider other options in terms of re-design of the deck. One of the options considered was David Shedd's suggestion to join the house and the trailer together by extending the deck between the two structures to alleviate the 25-ft. setback issue between buildings. Mr. Attenborough said this was something he would like to be able to do, and provided a sketch showing how he intended to construct the deck. In regards to the setback from the road, he said if the board was willing to consider Old Towle Road an internal road requiring only a 40-ft. setback, that he could cut the corner off the deck to make it 32-ft. from the centerline of the road. Mr. Attenborough said he was willing to listen to and consider any other suggestions the board may have. He said he had located his septic system and in doing so, it was determined that moving the driveway wasn't an option since its location was limited by where the septic system was found. He also said that the trailer would eventually be moved from the property

David Shedd noted that the zoning ordinance states that roads internal to developments only require a 40-ft. setback, and felt that this situation could come under that regulation since access to the cabins was off Town Hall Road. The board discussed this, and agreed that Old Towle Road was technically a driveway serving the cabins in the area. Peter Pelletier inquired as to the accuracy of the location of the road. Chairman Plusch said the road could barely be considered a road, and noted it was described on the property survey prepared by Thorne Surveys as a "woods road." It was hypothetically noted that a vehicle driving to one side in muddy conditions could possibly change the location of the so-called centerline of the road. David Shedd discussed the reference points governing the location of the deck and said he would like it noted in the decision that the deck should extend 4-ft. from the house with a 45 degree angle, as proposed by Mr. Attenborough.

At this point the Chairman asked if the board had any further questions, then opened the hearing for public comment. When no comments were forthcoming, the public comment period was closed and the board deliberated and voted on the five conditions which must be met before a variance can be granted, as follows:

- a) Granting the variance will not be contrary to the public interest. Vote: 5 agree (unanimous).
- b) Owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship. Vote: 5 agree (unanimous).
- c) The spirit of the ordinance is observed. Vote: 5 agree (unanimous).
- d) Granting the variance would do substantial justice. Vote: 5 agree (unanimous).
- e) The value of surrounding properties will not be diminished. Vote: 5 agree (unanimous).

Based on the above vote, the Chairman called for a motion to grant the variance. David Shedd asked that it be granted provided the deck does not exceed a four-foot extension from the northern side of the addition, then runs forty-five degrees to that extension and parallel to it. Motion was made by Peter Pelletier to grant the variance with the condition noted above added; seconded by Helen Crowell. Vote: All in favor. The selectmen will be notified that this variance permits the front setback of a deck, as described above, to be reduced to 32-ft., and for the deck to connect the existing residence and trailer, as shown on the plans provided.

2. Public Hearing - File 2015-03:

Applicant:	Fred and Joan Flippen
Location:	403 Route 16/302, Intervale, NH
Bartlett Tax Map:	Tax Map 1RT16, Lot 201LO00
Purpose:	A special exception to complete the build-out of a self-storage facility by adding a ninth building containing 18 storage units.

Zoning Ordinance Section: Article XVIII, Section D.1(c).

Robert Tafuto of Ammonoosuc Survey Co. and Fred Flippen presented. Mr. Tafuto described how the applicant would like to complete the build-out of his storage facility by adding a ninth building. He said he was before the board because storage facilities were only permitted by a special exception. The Chairman asked whether this building was shown on the original plan that was presented to the selectmen when this facility was originally developed. Mr. Tafuto said the original buildings were constructed back in the 1980s before zoning, and the applicant had since acquired an abutting property which this unit was being placed on. The board reviewed a plan presented by Mr. Tafuto. When asked whether the property flooded, Mr. Tafuto said it did not and pointed out the LOMA boundary shown on the plan, and the distance of the building from the river. Norman Head asked whether the property boundary was the thread of the river. Mr. Tafuto said another survey company had prepared the original plan, but he was pretty certain that was how the boundary was defined. Mr. Head said he would like to see a copy of the deed to verify that. David Shedd asked whether the applicant had applied for a shoreline protection application with the state. Mr. Tafuto said the first part of the process was to get approval from the ZBA to erect the building and all other permits will be sought after that. Mr. Tafuto explained the floodplain and mean high water setbacks required by the town and state that would affect this project.

At this point the Chairman asked if the board had any further questions. Norman Head expressed concern that the building encroached into the setback, but it was determined the line Mr. Head was looking at was an elevation line, not a setback line. The public hearing portion of the meeting was opened. Peter Gagne cautioned the applicant that site plan review may be required for this project. With no further comments or questions from the public, the public hearing was closed. The board deliberated and voted as follows on the criteria which had to be met before a special exception could be granted:

- 1. The site is an appropriate location for the proposed use: Vote: 5 yes (unanimous).
- 2. A preponderance of evidence is found that property values will not be reduced due to incompatible land use by such a use: Vote taken: 5 yes (unanimous).
- 3. No traffic hazard will be created: Vote taken: 5 yes (unanimous).
- 4. No nuisance or other hazard is involved: Vote taken: 5 yes (unanimous).

5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use: Vote taken: 5 yes (unanimous).
6. There is adequate area for safe and sanitary sewage disposal according to state regulations: Vote taken: 5 yes (unanimous).
7. Operations in connection with such a use shall not violate the provisions of Article IV of this ordinance: Vote taken: 5 agree (unanimous).

Based on the above vote, the Chairman called for a motion to grant a special exception to allow the applicant to add a ninth building to his self-storage facility. David Shedd made the motion to grant the special exception with the condition added that a shoreline protection application would be submitted to the state. The motion was seconded by Helen Crowell. Vote: All in favor. The selectmen will be advised of the board's decision.

3. Public Hearing - File 2015-04:

Applicant:	Paddle Peaks LLC (Peter Gagne)
Location:	1361 Route 302, Bartlett, NH
Bartlett Tax Map:	Tax Map 5VILLG-MAI, Lot 710
Purpose:	A special exception for a 20% reduction to the commercial sideline setback requirements to allow a garage to be constructed 40-ft. from the sideline boundaries.

Zoning Ordinance Section: Article XVIII, Section D.1(b).

Peter Gagne presented. Peter Pelletier asked him about the discrepancy in the size of the garage shown on the plan provided by Mr. Gagne and size shown on the application. Mr. Gagne said one version reflected the roof overhang. He explained that he was proposing to build a two-car garage on his property. Due to the width of his lot, it was necessary to apply for the 20% reduction of the 50-ft. commercial setbacks allowed under the zoning ordinance to enable the garage to be built large enough to meet his needs. He said the garage would be built to aesthetically complement the existing property. The Chairman asked if the board had any questions, then opened the public comment period. Abutters Jessica and Mark Spaulding questioned Mr. Gagne about what he was proposing to build. Mr. Gagne answered their questions to their satisfaction and explained where the garage was going to be located. The Chairman asked the Spauldings if they had any objections to the garage, and they indicated they did not. They asked why a variance was not being requested, and the difference between a variance and a special exception was explained to them. The public comment period was closed.

The board then deliberated and voted on the criteria required to be met before a special exception can be granted, as follows:

1. The site is an appropriate location for the proposed use: Vote: 5 yes (unanimous).
2. A preponderance of evidence is found that property values will not be reduced due to incompatible land use by such a use: Vote taken: 5 yes (unanimous).
3. No traffic hazard will be created: Vote taken: 5 yes (unanimous).
4. No nuisance or other hazard is involved: Vote taken: 5 yes (unanimous).
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use: Vote taken: 5 yes (unanimous).
6. There is adequate area for safe and sanitary sewage disposal according to state regulations: Vote taken: 5 yes (unanimous).
7. Operations in connection with such a use shall not violate the provisions of Article IV of this ordinance: Vote taken: 5 agree (unanimous).

Based on the above vote, the Chairman called for a motion to approve a special exception to allow a garage to be constructed on the subject property with a 40-ft. setback from the sideline boundaries, as shown on the plan provided. Motion made by Norman Head; seconded by Helen Crowell. Vote: All in favor.

4. Minutes: The minutes of the August 31, 2015 meeting were reviewed. Motion to approve the minutes, as written, was made by Norman Head; seconded by David Shedd. Vote: All in favor.

5. Other Business: The board discussed a request from Norman Head to hold future meetings at 7:00 pm, instead of 7:30 pm. There were no objections to this request. A motion was made by Norman Head; seconded by Helen Crowell to change the time of all future meetings to 7:00 pm. Vote: All in favor.

With no further business, a motion to adjourn was made by Peter Pelletier; seconded by David Shedd. Vote: All in favor. Meeting was adjourned at 8:37 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary