

ATKINSON ZONING BOARD OF ADJUSTMENT

19 Academy Avenue

Atkinson, New Hampshire 03811

Public Hearing Meeting Town Hall

Wednesday, July 8, 2026

Members Present

Glenn Saba, Chair
Scott Sullivan, Vice Chair
John Troy, Member
Guy Wetherbee, Member
Corey Barnes, Member
Hank Riehl, Alternate

Others present

Gabi Dias, Finder of Facts
Richelle Cicerone Messersmith
David Jordan
David Gaudet
Jon Longchamp
Karen McFadden

Workshop 7:00 PM

Approval of Minutes:

Vice Chair Sullivan made a motion to approve the minutes of the May 13, 2026 meeting as amended. The motion was seconded by Member Wetherbee. The members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 5/0/0. The vote is unanimous.

Member Troy made a motion to nominate Gabi Dias as the Keeper of the Finding of Facts. The motion was seconded by Vice Chair Sullivan. The members of the Atkinson Zoning Board of Adjustment present 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 7:31 PM. There will be one hearing. Chair Saba said the five members in attendance will be voting. Alternate Riehl will be participating in discussions but will not be voting.

Public Hearing – 7:30 PM

1. Application submitted by Richelle Cicerone Messersmith for Special Exemption/Home Business, specified in the Zoning Ordinance, Article IV, Section 450 to operate "Back to Nature Club" at property located at 72 Maple Ave., Map 14 Lot 39-1, TR2 Zone.

Abutters:

Perri, Mark R, Belfiore, Joni; Gillian, John H., Gillian, Jacqueline S; Mullett, Peter & Lorraine IRR, Mullett, Peter C & Lorraine; Messersmith, Richelle C., (**present**); Schena, Paul J.

Discussion:

Ms. Messersmith says she would like to open a small personal training/wellness center for one to two clients at a time. She said she would like to use her pool and hot tub in the summer for water aerobics. She said she has plenty of parking to accommodate the clients. She said the pool and hot tub are located behind the home in a fenced-in area. She says she has a business in Stoneham, Mass., and this will be a secondary business serving three to four clients a day. She said there will be no sign for the business. Vice Chair Sullivan asked if the Reiki being offered is considered a massage. She said it is different, but there may be hands touching a person. Vice Chair Sullivan asked whether she would need to be licensed as a masseuse. She said she has a Reiki certification. Vice Chair Sullivan said he read the definitions, and Reiki seems to be allowed. Vice Chair Sullivan asked whether the business needs to be kept within the home. Chair Saba said it is a gray area and believes as long as it cannot be seen from the road. Chair Saba said if clients will be coming to the home the home may need to be inspected as part of the permitting process.

Chair Saba opened the meeting to the public. There was no public discussion.

Findings of Fact:

1. The owner wants to run a personal training/wellness business from her residence.
2. Per the application, 5 to 10 percent of the residence will be used for the business.
3. The residence already has the workout equipment, a sauna, as well as hot tub and pool.
4. There will be no visible evidence of a business being run from outside the residence.
5. The applicant has enough driveway space for client parking. No street parking is required.
6. Per the application, there would be approximately four to five client cars parked throughout the day but never more than two at any given time.
7. Clients would come for appointments and the business would not be open full-time.

CRITERIA A. Business will not exceed 20 percent of the property.

Chair Saba said the applicant is about 5 to 10 percent of the house but questioned if the pool is considered in the calculation. He asked if the pool is screened in. She said there is a fence and vegetation. Chair Saba asked about loud music. Ms. Messersmith said there will be no loud music.

Vote: 5/0/0. Criteria A passes.

CRITERIA B. No business will be done in a multi-family home.

Ms. Messersmith said it is a single-family home.

Vote: 5/0/0. Criteria B passes.

CRITERIA C. Business will not exceed 80 hours a week.

Ms. Messersmith said she is the only trainer and will not have employees.

Vote: 5/0/0. Criteria C passes.

CRITERIA D. There shall be no physical appearance outside the dwelling.

Chair Saba said the pool cannot be seen from the street and nothing additional is being added to the property.

Vote: 5/0/0. Criteria D passes.

CRITERIA E. There will be adequate parking.

Ms. Messersmith said there is parking in the driveway. Chair Saba said he noticed three cars in the driveway. She said with the two-car garage and the length of the driveway, the extra cars can be accommodated.

VOTE: 5/0/0. Criteria E passes.

CRITERIA F. There will be no public hazard caused.

Chair Saba said the only concern would be the outdoor activities. Vice Chair Sullivan asked Ms. Messersmith if she would be OK with a restriction of no more than two clients at a time. She agreed.

Vote: 5/0/0. Criteria F passes.

CRITERIA G. The permit will go to the owner-occupant only.

Ms. Messersmith said she has no issues with this. Chair Saba said a new owner of the home would need to go before the Zoning Board for a new permit.

Vote: 5/0/0. Criteria G passes.

CRITERIA H. Business paperwork must be filed with the Town.

Ms. Messersmith said if approved, she will apply for a permit from the Town.

Vote: 5/0/0. Criteria H passes.

CRITERIA I. No heavy truck use.

Ms. Messersmith said this is not an issue.

Vote: 5/0/0. Criteria I passes.

CRITERIA J. No commercial vehicles.

Ms. Messersmith said this is not an issue.

Vote: 5/0/0. Criteria J passes.

Vice Chair Sullivan made a motion to grant the application submitted by Richelle Cicerone Messersmith for Special Exemption/Home Business, specified in the Zoning Ordinance, Article IV, Section 450 to operate “Back to Nature Club” at property for no more than two clients at a time at a property located at 72 Maple Ave., Map 14 Lot 39-1, TR2 Zone. The motion was seconded by Member Troy. The members of the Atkinson Zoning Board of Adjustment present voted in favor. Vote: 5/0/0. The vote is unanimous.

Chair Saba said there is a 30-day appeal period. He said the applicant needs to follow up with the business inspector to see if an inspection is required. He said the permit is good for two years and annual inspections by the Town are allowed.

2. Application by David Jordan, of Greenman-Pederson, Inc for David S. Gaudet seeking a variance under Article IV Section 410:8b to allow the construction of a detached 2 car garage 50 ft from a wetland where 100 ft is required (50 ft variance) at 3 Pages Lane, Map 13 Lot 15, in the TC Zone.

Abutters:

Gaudet, David S. (**present**), Gaudet, Karen A.; Liberatore, Robert R., Jr, Liberatore, Elizabeth A.; Sadkowski, Kathleen Ann Trust, Sadkowski, Kathleen, TTEE; Weaver, Julie & Robert, Jr.; Banville Family Trust, Banville, Jean M & Paul J. TTEE; Encarnacion, Edifran Luna; Mercier, John L.; Winslow Drive Realty Group LLC, Jameson Ridge Homeowners Assn.; Bourque, James T., Bourque, Sharon A.; Greenman-Pedersen Inc; Jason Bolduc, Acer Environmental LLC.

Discussion:

Mr. Jordan of Greenman-Pedersen provided photos of the area to show existing conditions on the property. Ms. Dias read into the record a letter from the Conservation Commission on the application identifying its concerns with the project, including its proximity to the wetlands as well as identifying other locations available on the property for the structure.

Mr. Jordan said the plan has been amended based on the Conservation Commission's concerns. He said the application is for a detached two-car garage. He presented a plan to show the new proposed location as well as the wetlands. He said the new plan moves the garage up over the end of the existing pavement. He said it results in only a slight increase in impervious area of about 260sq ft. He said a drip strip will be installed around the garage which will take the runoff from around the garage and driveway and allow it to recharge. He said the area is fully stabilized and is covered in grass. He said this project will improve existing conditions around the wetland. He said erosion control barrier will be installed during construction. He said a single tree will be removed. He said it was a planted tree as part of the original build.

Mr. Jordan said the owners feel that having the ability to have parking in the enclosed garage is better than parking in the open which is the current situation. He said the garage also provides much needed storage for the home. He said there is no good location outside the wetland buffer to place this second garage. He said putting it on the other side of the house would require a new driveway off Route 121.

Chair Saba asked about the NHDES order. Mr. Jordan said he was not aware of the order until his appearance before the Conservation Commission and the order goes back to a prior owner. Chair Saba said the order follows the land, not the owner. He said while the plan is good because it is mitigating rainwater runoff and the increase in impervious area is minimal, the Board needs to be cautious in its next steps. He said he does not want to see this cause a further encroachment.

Mr. Jordan said he believes the NHDES is a separate issue and should be separate from the application before the Board. He said this order came as a surprise to the owner. Chair Saba suggested reaching out to DES to see what can be done. Vice Chair Sullivan said he agrees the NHDES order should be addressed. He said the wetlands that are no longer there makes him unsure where the setback is for the garage being proposed.

Member Barnes said he was the person who built the home and said the state would not allow a driveway cut off Route 121. Chair Saba asked the Board if anyone had an issue with Member Barnes being a part of the vote. Alternate Riehl said he believes it is up to the individual to decide. Member Troy said if there was an appeal made on a future decision, he said Member Barnes voting on the project might appear to be a conflict.

Member Barnes recused himself from the board. Alternate Riehl will be a voting member.

Member Barnes said the driveway was approved with a variance with input from the Town, the Fire Chief, Police Chief and others. He said a culvert was installed under the driveway. He said this was done because the state would not allow a driveway cut from Main Street. Chair Saba said the wetland existed and restricted building on the property and as ownership changed, the wetland was filled in.

Chair Saba said he does not believe the Board should go forward without answers to the NHDES enforcement order.

Member Troy asked whether the drip edge would be at grade and whether there would be any lateral slope for it. Mr. Jordan said the drip strip is 2 ft wide and 2 ft and deep. He said the edge of the drip strip will be level with the outside of the garage and sloping away from that. He said there would be no fill but there will be some exposed foundation on the back. Chair Saba asked if the applicant would be amenable to installing gutters and drywells as opposed to stone trench. Mr. Jordan said the owner would be agreeable to that.

Chair Saba opened the discussion to the public.

John Longchamp, 15 Bittersweet Lane, said he drives by the property on the way to his home and has been observing what has been happening there for years. He said a stonewall along Main Street was removed illegally, all the trees were moved, and said he does not know if the driveway over the wetland was done properly or not. Chair Saba said the driveway is where it belongs, but the Town put a cease and desist on the owner for filling in wetlands but never saw it through. He said the state issued an enforcement order. He said the Town is now looking at this as an opportunity to address this. He said a wetland cannot be brought back but it can be replicated.

Mr. Longchamp said the wetlands that were filled in were mostly on the Main Street side of the driveway and did feed into a prime wetland. Chair Saba said that information was not provided by the Conservation Commission. He said his observations was that it was a contained wetland. It may eventually drain into a prime wetland but indirectly. He said the Zoning Board relies on the Conservation Commission to determine the functionality of a wetland and the Zoning Board decided whether relief is warranted. He said the Board has approved freestanding garages in the wetland buffer in the past because both the Conservation Board and the Zoning Board generally agree it is better to keep vehicles, lawnmowers and such inside a garage where they are contained as opposed to lined up along the wetland.

Mr. Longchamp said the owner is using more land that he should be and now is not the time to allow further encroachment. Chair Saba said they are not using anything more than they are allowed to other than the wetland that was filled by a prior owner.

Mr. Longchamp brought up his concerns about a water structure and whether it was permitted. Chair Saba said it is outside the setback line. He said the driveway is within the buffer but that is allowed. IF the state wants the owner to replicate wetlands, he may need further relief. Mr. Longchamp brought up the Conservation Commission letter which stated other locations should be looked at. Chair Saba said the location of the proposed garage is not something to be decided by the Conservation Commission and that responsibility falls with the Zoning Board.

Karen McFadden, Bittersweet Lane, said the Town just completed a Master Plan and the community wants to protect wetlands as wetlands continue to disappear and there are not many remaining. Chair Saba said the Zoning Board focuses on the protection of Town wetlands and the Town owns quite a bit of conservation land. She said she is not speaking for or against the variance but for the community and said the community values wetlands. She

described why wetlands are important and would like further information on whether it is a prime wetland.

Mr. Jordan requested a continuance so the applicant can reach out to NHDES to see how they would like to handle the order. Chair Saba said the property looks beautiful but would like to see a resolution to the issue.

Vice Chair Sullivan made a motion to grant the request for a continuance by David Jordan of Greenman-Pederson, Inc for David S. Gaudet seeking a variance under Article IV Section 410:8b to allow the construction of a detached 2 car garage 50 ft from a wetland where 100 ft is required (50 ft variance) at 3 Pages Lane, Map 13 Lot 15, in the TC Zone to the August 12, 2026 meeting. The motion was seconded by Member Wetherbee. All members of the Zoning Board of Adjustment voted in favor. Vote: 5/0/0. The vote is unanimous.

Vice Chair Sullivan made a motion to close the public hearing. The motion was seconded by Member Weatherbee. All members of the Zoning Board of Adjustment voted in favor. Vote: 5/0/0. The vote is unanimous.

Member Barnes returned as a voting member.

Other Business:

Motion for rehearing:

Chair Saba said the Board must decide whether the Board acted unreasonably or unlawfully or if the Board believes there are sufficient grounds to reconsider the original decision. He said if that is the stance, then the motion should be granted but if that is not the stance, the motion should be denied.

Chair Saba asked if everyone had read the request for a rehearing. He said he did speak with the Town Administrator on the court case that the Board was discussing about cumulative impact. He said the response was simple — if it is in the handbook, it is relevant, and the Board has every right to lean on that.

He asked Board members if anyone felt the Board acted unreasonably or unlawfully or if there was anything presented in the motion that made them want to reconsider. There was no response.

Vice Chair Sullivan made a motion to deny the request for a rehearing under RSA 677:3(2) on the denial of a variance for an open-sided carport located at 36 Hemlock Shore Drive, Map 22, Lot 60, in the RR3 Zone. The motion was seconded by Member Barnes. All members of the Zoning Board of Adjustment voted in favor. Vote: 5/0/0. The vote is unanimous.

Vice Chair Sullivan made a motion to adjourn. The motion was seconded by Member Weatherbee. All members of the Zoning Board of Adjustment voted in favor. Vote: 5/0/0. The vote is unanimous. Chair Saba closed the meeting at 8:30 p.m.

Next Regular Zoning Board Meeting scheduled is August 12, 2026.

These minutes were prepared by Gretchen Grosky.