

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, JANUARY 17, 2024**

Members Present:

Sue Killam, Chair

Ted Stewart
Paul Wainwright

John Ottow
Sue Coppeta, Alternate

Others Present

David Jordan, Greenman-Pedersen, Inc.

Call to Order:

Chair Killam called the meeting to order at 6:30 PM and stated that the Board will start with a workshop. There will be two public hearings starting at 7:00 PM.

Minutes: January 3, 2024 10:00 AM and January 3, 2024

January 3, 2024 10:00 AM

Alternate Coppeta made a motion to approve the minutes of the January 3, 2024 10:00 AM meeting of the Atkinson Planning Board as corrected. Member Ottow seconded the motion. Vote: 4/0/0. The motion passes.

Member Stewart appeared.

January 17, 2024

The Board decided to table the January 17, 2024 minutes of the Planning Board workshop meeting until Alternate Coppeta could review the video.

Housing Needs Assessment & Regulatory Audit Project

Chair Killam informed the Board of events during a zoom meeting January 16, 2024 with three people from New Hampshire Housing, HOP and Jennifer Rowden from Rockingham Planning Commission, Ms. Killam and Ms. Coppeta. The purpose of the meeting was for Ms. Rowden to lay out the scope of work she would like to use to help Atkinson finish the Housing Needs Assessment and Regulatory Audit project, the two grant funded pieces. Everyone seemed happy that Ms. Rowden was able to use other work done by Rockingham Planning Commission. The other important thing about the meeting is that some of the money from task one can be moved to help pay for the more expensive work on task two, the regulatory audit. The members of the Rockingham Planning Commission stated that they approved, but it has to be reviewed by the Steering Committee and they believe it will not be a problem. Alternate Coppeta stated that Ms. Rowden hopes to complete the project by the end of May, although the project does not need to be done until the end of July, which gives her a grace period.

Public Hearing:

- 1. Application for a waiver from Site Plan regulation 730:3 (d) in order to request an extension of the conditional approval originally issued on May 19, 2021 and extended on May 18, 2022 for a Site Plan for a non-residential development consisting of two buildings with a combined gross floor area of 83,745 +/- square feet and related site plan improvements to be located on property off Hall Farm Rd., Map 16 Lot 9-2, in the CI Zone.**

Chair Killam informed the Board that Atkinson site plan regulations state that a site plan is good for one year, but a waiver request can be allowed to grant an extension of an additional year.

Chair Killam read a letter dated January 17, 2024 from Steve Keach, Keach Nordstrom Associates into the minutes.

“...In my view, it must be recognized that this is a very large project envisioned and initiated by the owner/applicant prior to the onset of the 2020 pandemic. Apart from other matters that may have influenced owner delay and commencement of construction, the reality is, that like most other large-scale contractors serving the greater Boston nonresidential construction market, onset of the pandemic effectively shut down their work for a sustained period of time. Based on a combination of adjustments in consumer demand and a dramatic increase in both the cost of construction and financing (interest rates) realized subsequent to 2020, it is understandable that Select Demolition and the affiliated businesses scheduled to occupy the new space have hit the pause button on project construction.

Despite this reality, I continue to view the approved site plan as both viable and desirable over the long term. Therefore, I see no benefit to the public in declining to approve the subsequent time extension requested by the owner. In my view, It is also important to continue to recognize the long term benefit to the Town of Atkinson non residential tax base realized if and when the project is ultimately constructed...”

Chair Killam read the abutters list.

Abutters:

Stacey Realty, LLC, Ruby Holdings, LLC , 26 Hall Farm Road, LLC, Ermer, Charles W., Twenty-three Hall Farm Road, LLC, D’Allewa, Pasqualina (Trustee of Hall Farm Road Trust), Atkinson, Town of (Conservation Commission) (present), Cappuchi, Anthony and Kelsey, Bobby Annie LLC, Jappe, Paul, Kimball, William J. and Alicia, Busby, Paul D., Rock Ridge Development, LLC (present), Ferwerda, Timothy (Soil Scientist), Greenman-Pedersen, Inc. (present)

Discussion:

Chair Killam requested a motion to take the site plan under jurisdiction.

Alternate Coppeta made a motion to take under jurisdiction the Application for a waiver from Site Plan regulation 730:3 (d) in order to request an extension of the conditional approval originally issued on May 19, 2021 and extended on May 18, 2022 for a Site Plan for a non-residential development consisting of two buildings with a combined gross floor area of 83,745 +/- square feet and related site plan improvements to be located on property off Hall Farm Rd., Map 16 Lot 9-2, in the CI Zone. Member Stewart seconded the motion. All members of the Atkinson Planning Board present voted in favor. Vote: 5/0/0.

Chair Killam stated that the letter from Mr. Keach did a good job of summarizing her feelings. Member Ottow stated that he fully understands the request for extension, and a further discussion about the temporary building is needed. He thinks this Board has a friendliness to people who want to do positive things in the Town and he thinks this is a positive step for this piece of property. Chair Killam stated that Member Ottow was not on the Board when the project was first presented and did not see the elevations and drawings. She believes the project would be a nice addition to the Industrial Zone. Member Stewart stated that it is much nicer than the previous site plan submitted and this is a win. He would make a motion to grant the time extension.

The Board discussed the length of the requested extension. Alternate Coppeta informed the Board that the regulation states the first extension is for a year, but does not give a time limit for further extensions. Chair Killam stated that the motion would be to approve a waiver of site plan regulation and there is a specific process.

Chair Killam read Atkinson Site Plan regulation Article VII, Section 730:3 (d) into the minutes:

A site plan that has been granted a conditional approval shall have one (1) year from the date of conditional approval to fulfill the conditions or the approval is revoked and the plan must come back for review. (1997)

Chair Killam stated that because the is in Atkinson site plan regulations, the request is for a waiver of the above so that the plan does not get revoked. Now would be a good time to ask what conditions have been or have not been met.

Mr. David Jordan, Greenman-Pedersen, Inc. appeared before the Board. He explained that the well has been drilled and tested. Conditional final well approval has been received. Approval for the two septic systems, one for each building, has been obtained. Those are conditions of approval. The site plan has been recorded. He is not sure if there are any other conditions outstanding.

Alternate Coppeta read the conditions of approval for the site plan:

- Wetlands permit
- Alteration of terrain
- Noncommunity water system approval
- Construction approval for the septic systems

- Bond

Mr. Jordan informed the Board that all the conditions of approval listed above have been obtained. Alternate Coppeta will check if a bond has been posted.

Chair Killam asked Mr. Jordan and the Board how they would feel about a short period of time to get everything together then come back and ask for final approval. Chair Killam has not seen the well approval results or the septic system approval and would like to read the reports. She would also like the Town Engineer to review whatever approvals have been received.

Chair Killam asked about the well. Mr. Jordan stated that the well will give enough potable water for both buildings. The well will also provide a BA source for fire protection water. A tower will be required because of the size of the buildings. The well is being drilled and tested. Member Stewart remarked that a large water test is very expensive.

Member Stewart asked if the bond is the last thing. Alternate Coppeta stated that a final letter from the Town Engineer is also needed. Chair Killam stated that approval for the bond amount will be in the letter from the Town Engineer. Member Wainwright asked once final approval is granted how long does the applicant have to start construction. Chair Killam stated that once the Planning Board grants final approval, it is forever, however she believes the State has a four year exemption limit to start construction in case of changes in State law. Mr. Jordan informed the Board that Alteration of Terrian approval expiration runs out in five years, the same as wetlands. One extension on wetlands and Alteration of Terrian is allowed, but they must be requested before approval expires.

Chair Killam stated that the motion must be structured according to the ordinance. Mr. Jordan informed the Board that the applicant is requesting a one year extension. Chair Killam stated that the waiver request must also be addressed. The Board discussed grounds for granting the waiver.

Member Wainwright read NH RSA 674:44 III (e-1): Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations...

The Board agreed that this would be the condition for the waiver to be granted.

Alternate Coppeta made a motion under NH RSA 674:44 III (e-1) to approve an extension of approval for a period of 12 months the Application for a waiver from Site Plan regulation 730:3 (d) in order to request an extension of the conditional approval originally issued on May 19, 2021 and extended on May 18, 2022 for a Site Plan for a non-residential development consisting of two buildings with a combined gross floor area of 83,745 +/- square feet and related site plan improvements to be located on property off Hall Farm Rd., Map 16 Lot 9-2, in the

CI Zone because strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations. Member Stewart seconded the motion. Vote: 5/0/0. All in favor.

Alternate Coppeta made a motion to clarify that the 12 month expiration date will be December 31, 2024. Member Stewart seconded the motion. Vote: 5/0/0. All in favor.

Chair Killam informed the Board that a large structure that looks like a tent or a Quonset hut has appeared on the site. It has become a question for Code Enforcement, who determined that the structure needed a building permit and one was not requested.

2. Application for Amended Site Plan by Greenman-Pedersen, Inc for 26 Hall Farm Rd LLC to allow a 3000 sf temporary building to be added to the previously conditionally approved plan located on property off Hall Farm Rd., Map 16 Lot 9-2, in the CI Zone.

Chair Killam stated that this is the site discussed in the first hearing. Mr. Jordan stated that the structure is not covered in his letter.

Abutters:

Stacey Realty, LLC, Ruby Holdings, LLC , 26 Hall Farm Road, LLC, Ermer, Charles W., Twenty-three Hall Farm Road, LLC, D'Allewa, Pasqualina (Trustee of Hall Farm Road Trust), Atkinson, Town of (Conservation Commission) (present), Cappuchi, Anthony and Kelsey, Bobby Annie LLC, Jappe, Paul, Kimball, William J. and Alicia, Busby, Paul D. (present), Rock Ridge Development, LLC (present), Ferwerda, Timothy (Soil Scientist), Greenman-Pedersen, Inc. (present)

Discussion:

Chair Killam stated that the temporary building is being used during construction of the conditionally approved project. She stated that earlier code enforcement activities had caused the building department to speak to a representative of the owner of the land about a massive amount of pallets of material staged on the site. The site is not supposed to be used without approval of the site plan. The applicant put up a temporary structure to house the excess material. Alternate Coppeta stated that it was represented that it was material to be used for construction of the site.

Member Stewart stated that if there is only conditional approval for the first part, it would be impossible to approve this request. Chair Killam informed him that the site plan is being amended. Member Stewart also stated that typically with a building on the site and a site plan application, the number of people using it, the hours of operation and other details are normally submitted and they are not included in this site plan. Just because the building is already there, it does not mean the applicant should not have to answer as to how it will be used, how it will be accessed and if the Fire Department will

be able to inspect, to name a few conditions of site plan approval. He has seen a lot go in and out of the site and none of it seems to be for starting construction. It seems to be temporary storage for some other project. He asked if there is a complete application explaining how the temporary structure will be used and by whom.

Chair Killam read the first note on the plan into the record: “the purpose of the plan is to show a proposed amendment to current site plan approval on Map 16 Lot 9-2 to permit the temporary building that has been placed on the property by the owner and to be used while site construction is ongoing”. That is their statement.

Mr. Jordan stated that it is the statement of Greenman-Pedersen based on information provided to them by their client.

Member Wainwright asked about the distinction between conditional approval and approval. Chair Killam explained that it would be conditional approval because the applicant has never received final approval.

Member Stewart stated that if the applicant had gotten past approval and had an erosion control bond, it would make a temporary building easier to allow.

Alternate Coppeta asked about the location of the temporary structure. Mr. Jordan informed her that their client did not inform them in advance of where the structure was going up so his firm offered no input as to the location. He pointed out the location of the temporary building on the site plan. Alternate Coppeta remarked that it seemed very far from the road and not particularly convenient. Chair Killam stated that gates and bars have been added, but Code Enforcement should be allowed to enter the facility.

Chair Killam read remarks by the Town Engineer into the record.

“...in my view, the key word here is temporary, while I would offer no objection to approval of the applicant’s current request to retain the structure/shelter previously erected, I would encourage the Board to impose approval conditions which include, a) define temporary, specifically he recommends that any approval granted for continued placement of the current structure be limited in duration. Should the Board elect to grant the extension requested under agenda item number one, he would recommend approval for temporary placement and use of the interim structure be limited to the duration of the extension. Under this scenario, should the owner ever abandon or be forced to abandon pursuit of permanent construction, license to maintain the temporary structure would also terminate and b) preclude full time use or occupancy of the temporary structure by workmen or employees. It is understood that the purpose of the structure is to serve as an unmanned shelter for the storage of materials and equipment. It is also understood that the shelter may also be periodically used to facilitate assembly or maintenance functions at a location protected from the elements given the absence of facilities necessary for accommodation of workmen on a routine basis. I believe it is both fair and reasonable for the Board to impose a condition precluding the same.”

Chair Killam stated that part of the concern in granting a waiver is having no communication with the applicant in terms of what will occur with the site in the future.

Code Enforcement must tell the applicant that it is doing something or get it approved. Chair Killam stated she is not sure if the applicant has ever responded to these communications. She believes the Code Enforcement Officer is not pleased with something that has popped up on the site without asking permission.

Member Stewart stated that the building does not offend him, but the applicant needs to follow the process. The applicant is asking for approval without going through due process.

Alternate Coppeta stated that the Board has been very strict about granting conditional approval without going through the process.

Chair Killam had complained about use of this site to the Building, Planning and Zoning office previously and has had a conversation with Mr. Busby as well. She asked if there was anything in the structure.

Member Stewart stated that the look of the building is fine, but the applicant needs to come back with a plan with all requirements for erosion control and other site plan approval requirements on it.

Member Wainwright stated that an aerial view shows a road. He suspects that the building location is the only level spot on the site. The road shows up on State maps. Chair Killam stated that there was a road in the Ruby Way plan for that site which was recorded. The road is there even though the plan did not go through.

Mr. Jordan agreed that the points made by Member Stewart are valid. The applicant has submitted a request for an amended site plan and the Board would like more information. It would behoove the applicant to come back at the next public meeting with the information. He will talk with the owner about finalizing the site plan approval. It does not solve the request to amend but it helps to put things in place properly.

Chair Killam would like to define the questions. The starting point is to demonstrate for the Board what has been done to meet the conditions of the original site plan and provide documentation supporting it for the Board and their engineer to review. Also, define the future of the site in terms of what the Town would look forward to as to what and when something will go up there. Then, explain what the structure is for. The representative who came in a year and a half ago no longer works for the company. His mission was to inform the Town that a temporary structure was needed to store material that Code Enforcement had been complaining about. She would like to know what is in the structure. She doubts that the material in the structure is needed to build the facility. She has been informed earlier by a contractor working for the applicant that the materials were from other jobs and a place was needed to "pop" them. They were told that storage of materials from other jobs was not allowed.

Member Stewart suggested getting rid of the conditional approval on the main site and treat this temporary building as a brand new site plan and explain how it will be used. Without going through the whole process it is impossible to approve.

Alternate Coppeta stated that even if the conditions of the original site plan were met, this would be an amendment to it because it is on the same parcel. It would not be a new site plan. It should include more information such as hours of operation, lighting, power, water and all other basic requirements. Chair Killam stated that the applicant never filed an application for a building permit. Alternate Coppeta explained that it was represented to the building inspector that what was being constructed would not need a building permit. However, now that the building inspector has seen it he believes that the current structure is not what he was expecting. Chair Killam stated that coincident with a complete site plan that shows the structure, the applicant also needs a building permit. The Board does not know if it meets State laws about plastic structures.

Member Ottow stated a date on when the Board can expect the application to be submitted is needed. Considering that Mr. Jordan did not follow the rules, he thinks it would not be unreasonable to request a site plan in 60 days or less considering the applicant did not follow the rules.

Mr. Jordan responded that he would like to continue the public hearing to the next meeting of the Planning Board in February.

Member Wainwright asked about jurisdiction and Chair Killam stated that if the Board takes it under jurisdiction it means the Board is actively working on it and they have 65 days to finish. If the Board does not take it under jurisdiction, it cannot give the applicant more conditions. It is better to allow Mr. Jordan time to present more information, have people appear who can answer questions and who represent the company.

Chair Killam stated that the Board can continue the hearing. Alternate Coppeta stated that if the hearing is continued and the issues are not resolved, then it is within the authority of the Code Enforcement officer to issue a notice of violation that could cease and desist use of this building until the issue is resolved. Member Stewart stated that asking for a continuance is the right step and agreed if the applicant does not comply with the conditions of the Board, then Code Enforcement can issue a notice of violation. Chair Killam pointed out that if there is a notice of violation, it is a long process. A notice of violation is adjudicated in court.

Chair Killam asked if anyone had more to add. Member Ottow stated that the Board would have to see a site plan for the temporary building. Alternate Coppeta stated that the Board could review both site plans and if everything lines up, then approval can be approved. If not, approval can be continued again. Chair Killam asked Mr. Jordan to inform the applicant that if the Town is pushed into a formal violation, it would include removal of the building and all the material in it. The applicant must understand that.

Member Stewart recommended that if the applicant has a plan, Mr. Jordan should send it to the department heads to review before the meeting in order to make it easier to get approval within 30 days.

The Board discussed the best date to continue the hearing. Mr. Jordan informed the Board that he has other obligations on February 21, 2024, the date of the next regular meeting of the Planning Board. Chair Killam suggested the Planning Board meeting March 20, 2024. Member Stewart stated that 60 days brings it to March and if everyone is comfortable with that, it works. Mr. Jordan agreed.

Alternate Coppeta stated she would not like to see increased activity on the site during this time. Mr. Jordan agreed.

Mr. Jordan requested to continue the hearing to March 20, 2024.

Member Ottow made a motion to continue the hearing to March 20, 2024 of the Application for Amended Site Plan by Greenman-Pedersen, Inc for 26 Hall Farm Rd LLC to allow a 3000 sf temporary building to be added to the previously conditionally approved plan located on property off Hall Farm Rd., Map 16 Lot 9-2, in the CI Zone. Member Stewart seconded the motion.

Discussion: Chair Killam recommended that Mr. Jordan coordinate with the Planning Administrator, the Building Inspector and the Town Engineer. Alternate Coppeta will follow up on the performance bond with Mr. Keach. Mr. Jordan will send Mr. Keach copies of the well approval and the septic approval.

Vote: 5/0/0. All in favor.

New/Old Business:

Member Ottow informed the Board that a draft Master Plan would be distributed to the members of the Planning Board January 18, 2024.

Alternate Coppeta asked if someone should be available to answer questions about the Planning Board advisory warrant at Town Meeting. Member Ottow stated he will be present at Town meeting and be prepared to speak. He will ask the Moderator if someone is needed to introduce it.

Adjournment:

Member Stewart made a motion to adjourn. Member Ottow seconded the motion. Vote: 5/0/0. All in favor.

Chair Killam adjourned the January 17, 2024 meeting of the Atkinson Planning Board at 8:00 PM.

The next Planning Board meeting will be February 7, 2024 at Atkinson Town Hall.