

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing/Workshop Meeting
Wednesday, January 5, 2005

Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman; Michael Fletcher
Alternates: Donna Sullivan; Ted Stewart (8:00); Joseph Guishard; John Miller

Ms. Killam called the meeting to order at 7:40 P.M.

Correspondence

Incoming

1. Selectmen Minutes 12/6/04.
2. Sumner Kalman dated 12/20/04 re: Cogswell Farm/Performance Bond/Pandelena.
3. City of Haverhill Public Notice for meeting of 1/12 and 1/25/05.
4. Town of Derry Public Notices for meeting of 1/5/05.

Outgoing

1. Selectmen dated 12/16/04 re: Jameson Ridge Bond Reduction.
2. Legal Notice for Citizen Petition Public Hearing on 1/5/05.
3. Adam Pappalardo & Erin Murphy dated 12/27/04 re: Lot Line Adjustment Plan approval.
4. Legal Notice Public Hearing meeting 1/19/05.

Heard was the following Citizen Petition:

Proposed Amendments to Zoning Ordinance, Section 620. Golf and Sports Complex/Residential Sub-District ("SCR Subdistrict"), related sections and charts which would allow buildings within the SCR subdistrict to have more than four (4) units, but not more than forty (40) units in a building, so long as those buildings did not exceed fifty five (55) feet in height per the International Building Code and were set back four hundred (400) feet from the property line and/or town roads. These amendments to the zoning would not increase the allowable density and would correct omissions, typographical errors and recodification of the sections if necessary.

Ms. Killam explained the procedure. The outcome of this hearing cannot change the content of this document. The Planning Board will decide this evening whether or not to recommend this article.

The Board read the entire article received from Peter Lewis on December 7, 2004 and the hearing was opened to the public.

Mr. Polito, Chairman of the Zoning Board of Adjustment submitted a packet of information he prepared to be referenced as part of his presentation. The presentation contained some new information as a result of the meeting on January 4th. Mr. Polito feels that the current version of the Master Plan does not support the proposed zoning from the petitioner. RSA 676:18 requires that the

Master Plan reflect what is being done in zoning. Mr. Polito began by reading from the minutes of July 21, 2004, which stated that Ms. Killam felt that the Master Plan should be updated before major zoning is enacted. He reported that all surveys conducted when the Master Plan was last updated indicated that the residents of Atkinson wanted to maintain a rural character of the town as well as the preservation of wetlands. Mr. Polito referred to the packet of information where pages from the Master Plan were scanned in that he felt would back up his argument. Attached to this packet are excerpts from previous minutes. In the October 6th minutes there is a paragraph of discussion that refers to specific sections of the Master Plan. Mr. Polito guided the Board through his packet.

Excerpts from the Master Plan were reviewed such as the results of resident surveys and types of housing. Mr. Guishard pointed out that the vast majority in the Master Plan did support elderly housing and not condominium living. Mr. Polito felt that surveys do not give the town a license to do discriminatory zoning. The Master Plan committee takes this information to drive the vision statement.

Mr. Polito continued noting that this zoning petition is not about density or recreation but is about creating a new form of housing. The Master Plan has been updated to start dealing with the cluster subdivisions with the housing allowed as 4 units per building. Mr. Polito referred to an excerpt where, if Mr. Lewis were to build under this proposed zoning, more open space would be provided. The vast majority of open space that will be used in any development around the golf course is the golf course itself. When the history of zoning changes, the past twenty years are measured against these proposed zoning changes. In Mr. Polito's opinion, this change qualifies as a major change to Atkinson Zoning. He quoted an excerpt from Atkinson's Future Land Use Pattern that reads: the future land use pattern will closely resemble its existing land use pattern and no modifications to the present zoning districts is recommended. Mr. Polito stated that the Master Plan needs to be updated to support any change in zoning of this magnitude.

The Master Plan should consider an expansion of the Impact Fee Ordinance that will ensure that services are adequately provided by the developer that creates the burden rather than the taxpayers. The town should research and investigate the necessity of a growth management plan to accommodate the potential for future growth. Having housing for the elderly does not require a change in our housing options under zoning. Mr. Polito stated that he is not against this zoning or housing option but that the Board does not have a Master Plan that supports it and the Board has not thoroughly investigated what this zoning and housing change will do to the town.

The Master Plan states that the Planning Board should encourage long term planning for the location for recreational facilities. Enabling legislation gives the town two tools, impact fees and growth management. Mr. Polito did not feel that this had to be done but that the homework needs to be done to see if we need to

tap into these tools. Mr. Polito stated that this golf course stands alone in a 'rural' setting. It is not unlike the vast majority of golf courses in Southern New Hampshire and Northern Massachusetts. None of them are set up as 'resorts'. He didn't see a particular type of housing being necessitated by a golf course, if the housing is changed we are violating the 'rural'. He noted that this proposed type of housing is not 'rural' - a more appropriate adjective is the word 'resort'. When the town approved the golf course it did not change the zoning to allow for new housing options. The Board never imagined any more than single-family homes or 2 to 4 unit high-end town houses being built around the golf course.

Mr. Polito felt that Atkinson is not prepared to meet the service requirements of this housing option for fire and rescue and this will require thoughtful planning. He asked what would happen should one of these complexes have to be evacuated. He asked the Board to picture two volunteers on the job when a call like this comes in to evacuate a building three or four stories high, with elevators, a population of 55 and over and wheelchairs. In contrast, a town house with four units and a front door at graded level. We don't have the plan from the police and fire departments to handle this. Mr. Polito reminded the Board that, from the time this first came before the Board, and at every meeting since then, Ms. Killam has tried to get the Board to understand the due process and consideration that should be given to this major change in zoning prior to reaching a decision to support this. A review of the minutes show that the Board did not follow through to get the necessary professional advise for help. He noted that the Board is able to pay for professional help and asked if anyone has identified a similar town with the size and characteristics of Atkinson where they have this kind of a housing option and has anyone spoken to their Planning Board or Police and Fire Departments.

Mr. Polito concluded urging the Board not to recommend this petition and to allow Mr. Lewis to take his case directly to the voters and leave it to him to persuade the voters that this is good for the town.

The Board commended Mr. Polito for the work he put into this presentation.

Mr. Stewart commented that zoning at this time allows Mr. Lewis to do 400 4-unit buildings on this parcel without a zoning change. What are being discussed are 11 32-units. It was Mr. Stewart's opinion that it would be more 'rural' to have 11 buildings on 400 acres than 400 buildings. Ms. Killam stated that the developer has never said that they were not going to build the single family or 4 unit buildings as well. Mr. Stewart felt that 400 4-unit buildings 50' apart throughout all the remaining space left would look horrendous. This is a logical alternative and a much more 'rural' alternative than what is now allowed. He added that 95% of the people in Atkinson would like all building stopped now and no one wants change. As a Planning Board we know that this is illegal. The question is what could the town do to fit proposed development into what the town wants. He noted that the petitioner is one of three people who have kept the rural character

of Atkinson and that this elderly housing project does not go against what the people of Atkinson want.

Mr. DiMaggio responded to Mr. Polito's presentation. On the golf course, the zoning that allowed the golf course was brought in by a citizen's petition. The Board was against the zoning's density issues, which was worse than they are today. The Board did not approve the golf course itself until it was built. Mr. DiMaggio was thankful that Mr. Lewis put in a good facility. Mr. DiMaggio stated that, having brought petitions to the town himself that, if you want to get a petition passed in town, there is one person who could do it referring to Mr. Lewis. Being a logical person he felt it was better that the Board take a stab at this. He reminded the Board that a developer could come in today and blast in 600 units 2 bedrooms each. He noted that many member of the Board are in favor of this because they can see what this will potentially do for the town. Mr. DiMaggio asked who is going to take care of the housing for the elderly. Ms. Killam stated that we need more time to plan for this.

Mr. Polito felt that Mr. DiMaggio made some good points. He talked to a couple of realtors and added that this is not elderly housing. If it were it would say 65 years and older. This is high-end resort housing and he took exception to the fact that this is presented as a service. The cost of a unit will be \$500,000 or more. Settler's Ridge, which is low income, is taking care, to some extent, of the elderly. Mr. Polito stated that this is the next biggest thing in housing. He questioned if the 4-unit town houses would sell as fast as you could sell this.

Attorney Levine responded stated that this is not being proposed as resort or time-share units, the new proposal is regarding height and unit limitations as a zoning amendment. He disagreed strongly that this is not allowed by the Master Plan. The Master Plan is very specific in the summary of recommendations, which states that Atkinson should continue to monitor the incentive program for any appropriate changes. Incentive Programs are density bonuses. This zone is specifically zoned to allow these types of incentives. He continued, consideration should be given to the establishment of an elderly housing authority. Elderly housing is not exclusive to low-income or moderate housing. He noted that these residents will not all be infirmed or in wheelchairs. The points that are being made here are alarmists and extremists. The Master Plan does not limit the Town of Atkinson to 4-unit buildings. We do not want to empower the land rights that people already have, that is not the issue. This is within the sub-district and is consistent with the Master Plan. He asked the Board not to be taken aback with the statement that you have not been doing your do diligence. There were several meetings with Chief Murphy with the police chief and several workshop sessions and the town Road Agent has been consulted. All felt there would be minimal impact. Attorney Levine noted that this development will increase the open space because in intensifies the cluster. The developer has worked with this Board at every meeting since June, took into account the Board's responses and incorporated those into the proposed amendment

including a density restriction. He asked the Board to consider all the work they have done over 6 months and vote to support the petition.

Paul Sullivan stated that 'rural' is not a type of housing, it is a setting. Mr. Polito asked how many acres the petitioner owns and how many are consumed by the golf course. Mr. Lewis stated that there are 320 acres left measured by metes and bounds. Mr. Morse stated that they could crowd 400 4-unit buildings around the golf course or you can do it nicely such as units that are set back 400' from lot lines and town roads. He agreed that this is not all they are going to do. Mr. Polito stated that his major concern is how it is being done. He strongly urged the Board to speak to a professional and to get some help on this decision. He added that he is not against what is being done he is against the lack of information. He pointed out that the Fire Chief and the Police Chief are not present at this hearing. He could not see how, what he is projecting, is alarmist. Mr. Morse noted that Mr. Polito understands a lot but noted that it is the Planning Board's responsibility to enact zoning and this does not require an attorney to interpret what we do. He felt that everything we are doing is supporting 674:18.

Mr. DiMaggio made a motion to not support the Citizen's Petition because there is another version of this Article that the Planning Board has been working on that we feel is a better document. Mr. Fletcher seconded the motion.

Discussion: Mr. DiMaggio noted that the two documents are the same in content but the verbiage is different. He was concerned that if both documents get approved how is it determined which one imposes the greater restriction or higher standard. Mr. DiMaggio stated that he has never endorsed a citizen's petition, he felt it is the wrong way to do zoning. Ms. Killam agreed.

Ms. Killam asked if any member of the Board wanted to disqualify themselves from voting because of a conflict of interest. Mr. Stewart had signed this citizen's petition and agreed not to vote.

Vote of the Motion: Ms. Killam, Mr. Fletcher, Ms. Sullivan, Mr. Miller and Mr. DiMaggio voted in favor of this motion. Mr. Guischard was opposed to the motion. Motion approved.

A meeting with Town Counsel will be scheduled.

Mr. DiMaggio made a motion to adjourn. Mr. Miller seconded the motion. Motion approved unanimously.

The meeting was adjourned at 9:15PM.

Next scheduled Planning Board Public Hearing meeting January 18, 2005

APPROVED _____ Respectfully submitted,

Carol Kater

