

**ATKINSON PLANNING BOARD**  
**Atkinson, New Hampshire**

**Public Hearing Meeting**  
**Tuesday, January 18, 2005**

**Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:47)**  
**Alternates: Ted Stewart; Donna Sullivan; Joseph Guishard; John Miller**  
**Ex-Officio: Phil Consentino, Selectman (present for part of the meeting)**

Ms. Killam called the meeting to order at 7:45 PM.

**Continued from January 4, 2005**

**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.

Being heard is the version of Zoning Amendment submitted by the Planning Board.

Ms. Killam read two letters into the record. The first letter is from Peter Lewis to Mike Murphy, Chief of the Atkinson Fire Department, dated January 11, 2005, Re: Alternative Residential Design Buildings. In this letter Mr. Lewis addresses Chief Murphy's concerns regarding the time it will take the Fire Department to have the staffing and personnel to adequately protect the proposed buildings. It was Mr. Lewis' understanding that Chief Murphy was comfortable with the height and size of the proposed buildings from an equipment standpoint. Based on the Fire Chief's concerns, Mr. Lewis states in the letter that he will not build more than one of these Alternative Residential Design Buildings per year for the first three years following the passage of the zoning amendment, if the amendment does pass in March, unless the Fire Chief determines that the department has achieved adequate staffing and personnel sooner. He will require any successor, transferee or assignee to be obligated to comply with this building schedule.

Chief Murphy was present and referred to the sub-committee meeting that he attended. At that meeting he got the impression that this would be a 'slow moving' project that would have some sensitivity to the fact that the department needed to build staffing which would take about two to three years.

At a previous Public Hearing, Frank Polito, Chairman of the Zoning Board, addressed the Planning Board with his concerns that this project would be

completed in two to three years and the Fire Department would not be prepared. Chief Murphy spoke with Mr. Polito about this and agreed that if this happened the Fire Department would not be ready. Chief Murphy stated that he did have a problem with the rapid growth of this project not the project itself. Chief Murphy stated that a committee has been formed and the department is working on staffing at this time. Mr. Lewis assured Chief Murphy that he would abide by this schedule. Chief Murphy took exception to the fact that Mr. Polito gave the impression the Fire Department couldn't handle this situation and keeps using the term 'volunteer' with respect to the Fire Department. Chief Murphy stated that the members of the Fire Department are trained just as well as Salem, Haverhill or any other town in the area. Chief Murphy stated that, if Mr. Lewis builds his building the Fire Department would do whatever is necessary to protect the building and the occupants in it. Based on the letter from Mr. Lewis the Fire Department is ready to go forward.

Chief Murphy noted that before this project was proposed the Fire Department was looking into their staffing needs. He felt that this was a win situation referring to the revenue this project would bring in which would help the Fire Department go in this direction. Chief Murphy noted that Atkinson has mutual aide agreements with the surrounding towns. Chief Murphy was comfortable with the project moving forward at the pace Mr. Lewis agreed to.

Ms. Killam read a letter from Frank Polito, dated January 14, 2005. Due to business travel he was unable to attend this meeting. He asked the Board to consider all of his input to date to apply to both Peter Lewis' petitioned article as well as the one before the Board this evening. His concerns were listed in the letter. He felt it is premature for the Board to move this zoning article to the ballot and asked that the Board take the next nine months to conduct the due diligence suggested in the letter.

Mr. Stewart, responding to Mr. Polito's letter, stated that the town did hire a consultant regarding the police and fire department hiring full time staff at a cost of thousands of dollars to the town. He noted that the Rockingham Planning Commission was consulted to help in updating the Master Plan five years ago. At that time the height and unit numbers were not discussed but the possibility of having sixteen hundred units built was part of that plan. He felt the town had already spent the money and done the work Mr. Polito suggested. He agreed with Chief Murphy that the Fire Department is very professional and very well staffed. He felt that Palmer Gas is a much larger and potentially hazardous situation than this development would ever be and the department has worked with that situation.

Ms. Killam reported on their meeting with Attorney Kalman. She noted that several people had concerns with the fact that Harold Morse attended that meeting. Ms. Killam stated that Mr. Morse asked if he could come and Ms. Killam did not see any reason why he couldn't. They weren't preparing for a

court case and no decisions were being made. Mr. DiMaggio noted that no one on the Planning Board had a problem with it. Mr. DiMaggio noted that this was an informational meeting. Attorney Kalman asked the Board what their problem was noting that this is going to the voters. Mr. Miller got the impression that it was all about interpretation. Ms. Killam stated that, in one form or another, it would be before the voters. If it passes the Planning Board better get ready to know how they will deal with some of the potential impact by site plan subdivision and regulations that our outside of our zoning regulations that can be enhanced by the Planning Board without a vote from the town. Mr. Morse stated that the reason for the meeting with Attorney Kalman was to address Section 674:18-Master Plan. Mr. DiMaggio stated that no one has ever challenged our zoning or our Master Plan for years. Mr. DiMaggio felt that we are not infringing Section 674:18 or the reference section 674:21.

Phil Consentino, Police Chief was in another meeting and was called in for his input. Chief Consentino felt that the Police Department could handle the influx of elderly and agreed with the time frame Mr. Lewis has proposed. He did not see a problem at this time.

Mr. Miller referred to the time frame proposed by Mr. Lewis and noted that there is nothing in place today that allows the Board to enforce this. Ms. Killam agreed that if there is an RSA that allows us to require some things we need to enact it into our zoning. Mr. Miller asked if we could do this in the subdivision documents and discussion continued on phasing. Mr. Stewart asked if the issue of phasing was part of the plan does it become legally binding or does not have to be in zoning and this was discussed.

**Mr. DiMaggio made a motion to move the Zoning Amendment to ballot which covers Section 500:2.1, Section 510:1, Section 530, Section 600:1, Section 600:5, Section 600:7, Section 600:8, Section 600:9 and Section 620 - Golf & Sports Complex in its entirety. From the January 4, 2005 meeting without change. Mr. Stewart seconded the motion.**

Discussion: Mr. Boyle asked why there are two petitions going forward the Planning Board's and Mr. Lewis'. It was noted that they are similar. Mr. DiMaggio stated that if the petitioners knew of any legal way to pull their petition back they would. According to Town Counsel there is no specific legislation or case law on how to do this. Attorney Levine explained that, because of the time restraints, the Citizens Petition gave the Planning Board additional time to get their petition together in better form. Mr. Levine noted that if consent was received from all the signors on the petition it could be retracted.

In the letter from Mr. Polito, he requested that Ms. Killam, before voting takes place, ask each voting member why they believe (or not) that there is a need to put this zoning article to the voters this year as opposed to waiting until next year. Mr. Stewart stated that this would go forward as a Citizen Petition anyway and it was better to have the developer work with us and come up with a better piece of

zoning. At least we have input and have produced a better document. Mr. Miller had concerns that both articles would pass. Attorney Kalman stated that if this happens the more restrictive one will prevail. Mr. Guishard stated that the Board started this about seven months ago with the anticipation of having it done in time for this ballot. He resented the lateness of all the questions and why they were not brought in months ago. Ms. Sullivan felt that this was a good document and that a lot of effort went into it. She felt that it was going to happen anyway. Mr. DiMaggio stated that the Master Plan wants rural character and this preserves it by keeping open spaces and buildings in and out of sight. The Master Plan showed that 183 of the respondents were in favor of elderly housing. He felt the voters were in favor of recreation more than this subdivision. He felt the Planning Board should provide for diversified housing. He referred to the financial benefits ie, town taxes and compared this to the cost of educating a child. We have a Master Plan and a CIP plan that meets regulations and this is cutting the density in half. Ms. Killam stated that she wishes we could wait and that her position is well known.

**Vote of the motion: Motion approved. 5 in favor - Ms. Killam and Mr. Miller opposed.** All members voted.

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

The meeting was adjourned at 8:45.

Next scheduled Planning Board meeting January 19, 2005.

**APPROVED** \_\_\_\_\_ Respectfully submitted,

Carol Kater