

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing/Workshop Meeting
Wednesday, June 18, 2003

Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:37); Michael Fletcher (7:55); Chuck Earley; Harold Morse (8:07); Nicole Cheney
Alternates: Donna Sullivan; Joseph Guisnard
Ex-Officio: Philip Consentino, Selectmen
Town Engineer: Steven Keach (8:10)

Ms. Killam called the meeting to order at 7:35 P.M.

CORRESPONDENCE

Incoming

1. City of Haverhill Legal Notice for 6/11/03 meeting.
2. Keach-Nordstrom Associates dated 5/28/03 re: Killam project right of way.
3. Lemery Building Co. dated 5/28/03 re: Millstream Crossing project right of way.
4. Planning Board Budget printout dated 5/29/03.
5. Dredge and Fill Application for Main Street/NH Route 121 (Little River, Camp Brook).
6. NH DOT dated 6/2/03 re: Interstate 93 widening meeting notice.
7. City of Haverhill Legal Notice for meeting dated 6/24/03.
8. Conservation Commission to NHDS Wetland Bureau dated 6/9/03 re: Killam Project, Westside Drive, Map 11, Lot 9.
9. Town of Derry Legal Notice for meeting of 6/18/03.
10. Lemery Building Co. dated 6/9/03 re: Notice to NHDS Wetland Bureau dated 6/9/03 re: Killam Project right of way.
11. Keach-Nordstrom Assoc. dated 6/9/03 re: Palmer Gas estimate for project review.
12. Selectmen minutes dated 5/19/03.
13. City of Haverhill Legal Notice for meeting of 7/8/03.
14. Steven Lewis Inc. dated 6/18/03 re: Withdrawal request for apartment building on Settler's Ridge Project.
15. Chief Murphy dated 6/18/03 re: Killam Subdivision review.
16. RCPC – Re: 50/50 Matching Grant Program

Ms. Killam noted that if the town wanted to take advantage of this program funds would need to be budgeted before applying. Projects must be completed before the end of June, 2004. Mr. DiMaggio asked if anyone had any suggestions, such as mapping, etc. It was the consensus of the Board that there was not enough time to work on it.

Outgoing

1. Memo to Department Heads dated 5/27/03 requesting review of Killam Project, Westside Drive.
2. Planning Board Legal Notice for meeting of 6/18/03.

APPROVAL OF MINUTES – May 7, 21, 2003

The minutes of May 7, 2003 were reviewed and the following corrections were made:

Page 4, Palmer Gas discussion, last sentence of the main paragraph to read 'It was determined that if it is commercial or multi family and a change to the existing plan is requested it should come before the Board as a site plan'.

A motion was made by Mr. Earley to approve the minutes of May 7, 2003 as amended. Ms. Sullivan seconded the motion. Motion approved. Mr. DiMaggio and Mr. Consentino abstained.

The minutes of May 21, 2003 were reviewed. Regarding the 'Voluntary Lot Merger', Ms. Killam reported that the drawings presented had not been updated since the lot line adjustment was done. The way it was applied for was correct and Ms. Killam signed the plan.

A motion was made by Mr. Earley to approve the minutes of May 21, 2003 as written. Mr. Fletcher seconded the motion. Motion approved. Mr. Consentino abstained.

The Public Hearing was opened at 8:00 P.M.
Ms. Killam stepped off the Board and Mr. DiMaggio took the chair.

Continued from May 21, 2003

Dean & Susan Killam submission of an application for Formal Consideration and Acceptance for a proposed five lot residential subdivision of 15.4 Acres of property located at 49 Westside Drive, Map 11, Lot 9, TR2 Zone. Revision date 6/17/03.

The abutters list was read. Present: Dean & Susan Killam; Dean Killam; Lemery Building Co.,Inc.; Paul & Jeaneane Tracy; James M. Lavelle Associates; Sublime Civil Consultants, Inc.

Mr. Lavelle opened with the issue of the 'right of way' and asked the Board for a report on their meeting with town counsel. Mr. DiMaggio reported that town counsel advised that there was an 'offer of dedication' with the recording of the plan on the right of way but the offer has not been accepted by the town at this time. It was Attorney Kalman's opinion that the ball is in the selectmen's court to accept this offer or not. Attorney Kalman suggested that the developer should go before the selectmen with this offer and the Planning Board should send a letter of affirmation to the selectmen. The Planning Board considers this to be a good access and would like the offer accepted. Attorney Kalman added that, because the right of way was not specifically deeded to anyone else, it does rest with the two adjacent landowners and not with the developer. Mr. Lavelle agreed with

Attorney Kalman's suggestions having had similar experiences in the past. Mr. Fletcher asked if the landowners are paying taxes on this piece of land and the response was that they are not and that they have no ownership rights. Attorney Kalman did recommend for the future that dedicated roads be deeded to the town. He noted that it would have been cleaner if the Board had asked that this right of way be given as an easement to the property owner next to the lot with the option to buy. Mr. Lavelle added that Hampstead is now asking for deeds by metes and bounds of the roads. Mr. Morse felt that the town did not want a deed to this right of way and that the reason the developer should go to the selectmen is because the selectmen are in charge of laying out roadways. Attorney Kalman indicated that the town should not approve the plan conditionally on a letter from the selectmen.

Mr. Lemery stated that he was hoping to buy this piece of land or sell it. The advice he got was to combine it with an existing lot and remove a lot line which would not be an approval process. Mr. Keach also spoke with Attorney Kalman and reported that the issue of ownership is irrelevant because of the rights of the public by virtue of dedication. The Selectmen need to grant permission to work in the right of way to build a class 5 road.

Mr. Lemery stated that Ms. Killam had expressed to him that she does not feel comfortable speaking to him about this issue unless it is before the Planning Board and asked if anyone else on the Board felt that way. Ms. Killam stated that she has met with Mr. Lemery regarding another development on occasion but does not feel comfortable with discussing her development.

Mr. Keach's review letter was discussed. Mr. Lavelle discussed the reduction of the road width and the location relative to the guardrails and the entrance to the roadway and reported that the design has been changed as suggested.

General Comments: All issues will be addressed.

Zoning Matters: All issues will or have already been addressed.

Planning/Design Matters:

1. Will be addressed.
2. Has been corrected.

Planning/Design Matter #3 – re: House numbers for each platted lot and Metes and bound descriptions of all proposed easements.

Discussion:

A letter from the Fire Department dated 6/18/03 was read. The letter referred to the road width reduction to 22' and noted that the Killam's have agreed to install a pressurized hydrant within the development. The fire chief will work with the Killam's as the plan proceeds. The fire chief will also work with the Building Department to address the house numbering. The name of the road was acceptable. The fire chief requested that, in the future, prior to road widths being waived, input on fire protection should be sought from the fire chief.

The metes and bounds issue has been done. Bench mark and street signs have been added.

Items 4,5 &6 deal with road construction and have been addressed.

Sublime Engineering discussed the waiver to reduce the width of the roadway. They were able to realign the centerline, reduce the cross section and get the grading to fit within the right of way without the need of the guardrail. All underdrain issues have been shown. A drain manhole in the middle of the road has been removed and replaced by a catch basin and a ditch line. Mr. Keach was satisfied with all drainage issues. Ms. Cheney had some questions on the drainage and run off and these questions were explained.

A letter from the Conservation Commission dated 6/9/03 was read. The commission reviewed the application and had several issues. One issue was the ownership issue of the right of way and the other was the proposed impact to approximately 3,000 sq. ft. of wetlands. The Conservation Commission voted unanimously not to authorize the signing of the expedited application form. Mr. Lavelle reported that he will contact Carol Hall and will handle it by either changing the application process to the state or by meeting with the Conservation Commission to address these concerns. The Planning Board will send the commission a copy of the letter they send to the selectmen regarding the ownership issue.

The hearing was opened to abutters.

There was a question on the proposal of offsetting the centerline by 3 feet and the 100-year flood area. This was shown to the abutter and explained. Mr. Lemery requested more information on the decreased road width and asked for a copy of the letter the Planning Board will be sending to the selectmen.

Copies of the Planning Board letter to Selectmen should be sent to the Conservation Commission, Mr. Lemery and all abutters.

Regarding the existing well and house, Mr. Lavelle would like to show an easement for the well radius on the other lot. Sheet 3 of 6. This is not in the buildable area. Mr. Keach will notify the Planning Board of all changes made on the plan.

Ms. Killam referred to a concern by abutter Pat Walker regarding the way the line was drawn between Ms. Killam's property and hers. Ms. Killam reported that if it is not correct they will correct it and if it is correct they will give her approximately 20 or 30 feet more along the brook with a lot line adjustment than what is shown. Mr. Lavelle stated that they could make a concession to the previous plan. This may eliminate the need for a lot line adjustment.

Mr. Lemery had a question on the drainage and asked for further explanation and this was discussed.

A letter was read from Lemery Building Co. dated 6/9/03 to the Wetlands Board, and to the Planning Board dated 5/28/03 stating that they own the right of way on Millstream Drive and have no agreement with the Killam's regarding this land. Mr. Lemery also had a question on abutter notification indicating that all 24 owners of Millstream Crossing should be noticed.

Regarding the notification issue, it was Town Counsel's opinion that the abutters had been properly noticed. Discussion on abutter notification continued and it was noted that Millstream Crossing does not have a Homeowner's Association which is a zoning requirement. Ms. Killam reported that Millstream Crossing is not alone in this issue and was not aware of any clusters in town that have created a Homeowner's Association to convey open space. Mr. Keach referred to Section 674.21a.

Mr. DiMaggio requested that the Planning Board look at Section 600:17 in its entirety and in particular Section 600:17e in regards to new legislation.

Ms. Killam noted that open space is listed on each individual homeowner's tax card as an amenity and tax records will never convey who actually has a share of open space.

The hearing was closed to the public.

The site walk was discussed. Mr. DiMaggio expressed disappointment with the buildable areas, the wetland impact and the non-jurisdictional wetlands. Mr. Lavelle explained that this is group 5 soil which is poorly drained soil, however, it does not have all the criteria to establish it as a jurisdictional wetland such as vegetation and hydrology. It can be filled as far as the state is concerned without a permit. In the town's regulations for group 5 soil the setbacks need to be met. Mr. DiMaggio asked what could be done to expand the building envelope to draw the buildings closer to the roadways and give some relief to abutters. He asked the applicants if they would be willing to seek relief from the wetland setback. Ms. Killam stated that they would like to show the buildable envelope as low impact and leave it up to the individual homeowners to seek relief if they want to. The applicant is not of the mind to reduce the buildable envelope before they have the chance to market it. Mr. DiMaggio stated that he would like relief to move closer to the wetlands. Mr. Morse also supported reducing the setback for individual owners. Mr. Lavelle reminded the Board of the additional cost and time lost for the applicants. Ms. Killam felt that if there is a regulation on the books the regulation should be adhered to, if you don't agree then change the regulation. Ms. Killam added that she has always spoken against granting a variance and noted that the people impacted by this are in a cluster and already

have 130' setback. In answer to a question by Mr. DiMaggio, Mr. Keach stated that the applicant can be the only partitioner to the Zoning Board, the Planning Board can only support the applicant.

Mr. Morse suggested the Board support reducing the setback for this project and meet with the Conservation Commission to do it. The Conservation Commission could provide some support if this does go to the Zoning Board of Adjustment. One of the items discussed with the Conservation Commission previously, in lieu of their prime wetlands, was to reduce the setbacks as needed. It was noted that the Conservation Commission will be before the Planning Board soon and will be holding an Information Meeting on this issue next week. This plan could be used as an example. A poll of the Board showed that they did not feel it was there battle if the applicants are not ready to pursue it. Ms. Cheney noted that, even if the setback was reduced to the non-jurisdictional wetlands, it does not provide much relief.

A motion was made by Mr. Earley to continue this hearing to July 16, 2003. Ms. Cheney seconded the motion. Motion approved unanimously.

A motion was made by Mr. Morse to draft a letter to Selectmen informing them of Town Counsel's recommendations and that the Planning Board is in favor of the right of way. Mr. Earley seconded the motion. Motion approved. Mr. Consentino abstained.

The hearing was closed at 9:40 P.M.
Selectmen Phil Consentino left the meeting.
Ms. Killam returned to the Board and took over the chair.

New Applications

Settlers Ridge Inc. (Steven Lewis) submission of an Application for Acceptance, Formal Consideration and Approval of an Amended Site Plan of previously approved 'Possible Group Care Facility' (D27562) to two 4 Unit Multi-Family Buildings on property located at 23 Pope Road, Map 12, Lot 22-1, RR2 Zone.

This Public Hearing was withdrawn.

The next hearing was opened at 9:42 P.M.

Meisner Brem Corporation for Palmer Gas Company submission of an Application for Acceptance, Formal Consideration and Approval for an Amended Site Plan proposing construction of a 4,700 sq.ft. vehicle maintenance garage, associated utilities, parking and grading on property located at 13 Hall Farm Road, Map 16, Lot 14, CI Zone.

The abutters list was read. Present: Meisner Brem; Charles Berner

Matt Hammer presented and reported on this minor site plan revision. The proposed leaching facility and septic tank has been installed as well as the holding tank. The applicant had been before the Board previously with a conceptual discussion to propose the new structure, which is a duplicate of the existing structure. The same drainage has been maintained, the retention facility has been moved. The drainage pattern and roof drainage pattern was explained. Ms. Killam asked about the proposed carport and was informed that this has nothing to do with what is before the Board this evening.

Ms. Cheney expressed concern with the roof drains to the catch basins. Discussion followed and Mr. Keach and Mr. Lavelle answered her questions.

Mr. Keach's review letter was addressed.

General Comments: 1) The proposal complies with all applicable requirements of the Zoning Ordinance as presented.

Planning/Design Matters: 1) Certified Wetlands Scientist stamp shown on the project plans. 2) Note No. 10 on Sheet 2 of 4 and Note No. 11 on Sheet 3 of 4 should be rechecked since there are not six sheets in this submittal. 3) That the prior site plan, with recording number, to be amended be cited as a reference plan on Sheet 3 of 4. 4) The word 'administration' should be replaced with the word 'administrative' in the text of Note No. 13 on Sheet 3 of 4. 5) A note relative to projected sound emissions should be added to the plans. 6) The design radii of all proposed pavement curves and flares should be specified on Sheet 3 of 4. 7) A typical design detail of the proposed parking/drive pavement section should be added to the final plan. 8) The height of the proposed building should be noted on Sheet 3 of 4 of the final plan. 9) The pipe type and diameter of the easterly length of the proposed roof drain be specified together with all design inverts; that a headwall or flared end section be installed at the detention basin outlet; the vertical separation from the rim to invert out at the proposed double catch basin to be situated off the southeasterly corner of the proposed building is insufficient to permit construction; the word 'inlet' should be replaced with the word 'outlet' on Sheet 3 of 4, in the text related to the outlet from the same catch basin discussed in the preceding comment; and the design engineer recheck the slope of the length of storm drain discharging from the proposed detention pond.

In reply to a question from Mr. Earley, Mr. Lavelle stated that the back of the lot would be gravel. Mr. Earley would like an area out back to remain gravel to allow for fire truck access. This is a cold storage building with no sprinklers. The building will be heated. Trailers, motorcycles, a boat and other vehicles will be stored in the building. Mr. DiMaggio asked about oil spills and floor drains with grease traps. Mr. Keach stated that this depends on what will be done in the buildings. The applicant stated that, should there be a wash down of any kind, the vehicle will be brought to the other building which has a tank. The proposed

building will be designated a 'clean' building or used for winter storage. The applicant agreed to sprinkle the building if necessary. Mr. Morse reminded the Board that this would be a Building Department issue and not a Planning Board issue.

A motion was made by Mr. Earley to take this plan under jurisdiction. Mr. Morse seconded the motion. Motion approved unanimously.

Plans will be sent to Department Heads.

A motion was made by Mr. Earley to conditionally approve the plan of Meisner Brem Corporation for Palmer Gas Company for an Amended Site Plan for the construction of a 4,700 sq.ft vehicle maintenance garage, associated utilities, parking and grading on property located at 13 Hall Farm Road, Map 16, Lot 14, CI Zone.

Conditions: All issues in the Town Engineer's review letter dated 6/18/03 corrected and a letter of approval from the Fire Chief. Notes of intended use of the building on the plan. Specific note added to the plan – no wash downs or floor drains in the building.

Mr. Fletcher seconded the motion. Motion approved. Mr. DiMaggio opposed.

The hearing was closed at 10:12 P.M.

The next hearing was opened at 10:14 P.M.

Mr. Earley stepped off the Board.

Proposed Amendments to the Building Codes to adopt the latest available revisions to previously approved NATIONAL FIRE PROTECTION CODES:

- NFPA 1 Uniform Fire Code**
- NFPA 14 Installation of Standpipe and Hose Systems.**
- NFPA 16 Foam-Water Sprinkler and Foam-water Spray Systems.**
- NFPA 22 Water Tanks for Private Fire Protection.**
- NFPA 55 Storage, Use, and Handling of Compressed Gases and Cryogenic.
Fluids in Portable and Stationary Containers, Cylinder, and tanks.**
- NFPA 75 Protection of Information Technology Equipment.**
- NFPA 97 Terms relating to Chimneys, Vents, and Heat-Producing Appliances.**
- NFPA 101 Life Safety Code.**
- NFPA 105 Installation of Smoke Door Assemblies.**
- NFPA 211 Chimneys, Fireplaces, Vents and Solid Fire-Burning Appliances.**
- NFPA 230 Fire Protection of Storage.**
- NFPA 259 Test Method for Potential Heat of Building Materials.**
- NFPA 501 Manufactured Housing.**
- NFPA 501A Fire Safety Criteria for Manufactured Home Installations, Sites,**

And Communities.

- NFPA 750 Water Mist Fire Protection Systems.**
- NFPA 801 Fire Protection for Facilities Handling Radioactive Materials.**
- NFPA 1124 Manufacture, Transportation, Storage, and Retail Sales of Fireworks, and Pyrotechnic Articles.**

Mr. Earley announced that if the Board had any questions on the headings listed they will be available for review. Last October Mr. Earley was before the Board for approval of a new code book – NFPA 5000 which was not approved. Mr. Earley stated that he would like to stay with the old NFPA 1 code book until the new book can be researched. The new NFPA 1 will not be adopted.

A motion was made by Mr. Fletcher to accept the Proposed Amendments to the Building Codes to adopt the latest available revisions to previously approved NATIONAL FIRE PROTECTION CODES with the exception of NFPA Code #1. Ms. Sullivan seconded the motion. Motion approved unanimously.

The hearing was closed at 10:19 P.M.

New Business

Nicole Cheney was introduced and welcomed as a new member of the Planning Board. She talked about her experience and background in civil engineering.

A motion was made by Mr. Earley to adjourn. Ms. Cheney seconded the Motion. Motion approved unanimously.

The meeting was adjourned at 10:30 P.M.
Next scheduled Public Hearing Meeting – July 16, 2003.

APPROVED _____ Respectfully submitted,

Carol Kater