

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing Meeting
Wednesday, July 16, 2003

**Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:29);
Michael Fletcher (7:51); Chuck Earley; Nicole Cheney**
Alternates: Donna Sullivan (8:09); Ted Stewart
Steve Keach, Town Engineer (8:10)

Ms. Killam called the meeting to order at 7:30 P.M.

CORRESPONDENCE

Incoming

1. Town of Haverhill Legal Notice for meeting of 7/9/03.
2. Selectmen minutes of June 2, 2003 meeting.
3. Town of Derry Legal Notice for meeting of 7/2/03.
4. James Lavelle dated 6/24/03 re: Killam Subdivision review comments on Engineering review.
5. Zoning Board Legal Notice for meeting of 7/9/03.
6. Keach Nordstrom Assoc. dated 6/23/03 re: Lemay Subdivision balance statement.
7. Keach Nordstrom Assoc. dated 6/23/03 re: Killam Subdivision balance statement.
8. Attorney Thomas MacMillan dated 6/25/03 re: Killam Subdivision Project Right of Way.

This letter was addressed to the Planning Board and copied to the Board of Selectmen, the Conservation Commission and Lemery Building, Inc. The letter stated that Attorney MacMillan represents Lemery Building, Inc. and disagreed with the Planning Board and town counsel that the right of way could be used for the proposed Killam Subdivision without just compensation. The right of way was never turned over to the Town of Atkinson nor the abutters and it was Attorney MacMillan's opinion that the ownership right is retained by Lemery Building, Inc. and that, without just compensation, court action will be initiated.

This will be discussed further during the Public hearing.

9. Town of Atkinson Safety Committee notice of meeting.
10. Planning Board Budget printout dated 6/30/03.
11. Selectmen meeting minutes of 6/9/03.
12. Town of Londonderry Legal Notice for meeting of 7/17/03.
13. City of Haverhill Legal Notice for meeting of 7/22/03.
14. Meisner Brem dated 6/30/03 re: Review comments on Palmer Gas Co. Site Plan.
15. Town of Derry Legal Notice for meeting 7/16/03.
16. Comprehensive Environmental Inc. dated 7/2/03 re: NH Planning Survey.
17. Board of Adjustment to Steven Lewis for Kuldip Bains dated 7/14/03 re: Wetland Variance approval.
18. Board of Adjustment to Dennis Parrish dated 7/14/03 re: SE/Accessory Living Unit approval.
19. Board of Adjustment minutes dated 7/9/03.
20. Selectmen minutes dated 6/30/03.
21. Chief Mike Murphy dated 7/14/03 re: Palmer Gas review of Site Plan.
22. Keach-Nordstrom Associates dated 7/16/03 re: Killam Project review.
23. Keach-Nordstrom Associates dated 7/16/03 re: Paul & Kathryn Regan Project review.

Outgoing

1. Palmer Gas Co. dated 6/27/03 re: Conditional approval of Amended Site Plan to Maintenance Garage.
2. Memo to Selectmen dated 6/24/03 re: Killam Subdivision Right-of-Way.

The memo written by Harold Morse explaining the Planning Board's position on this issue was read. Ms. Killam was present at the Selectmen's Meeting and it was their decision to put this matter on the agenda for the August 4, 2003 meeting as a Public Hearing under RSA 45. The Selectmen will meet with town counsel before the meeting to discuss this. Mr. Stewart hoped that the Selectmen and Planning Board would be on the same page on this issue. All those concerned have been noticed.

3. Legal Notice for meeting of 7/16/03.

APPROVAL OF MINUTES - June 18, 2003

The minutes of June 18, 2003 were reviewed and the following corrections made:

Page 6, first full paragraph, second last sentence, change 'there' to 'their'.

Discussion: Page 3, first full paragraph, 3rd sentence, 'Attorney Kalman did recommend for the future that dedicated roads be deeded to the town'. Mr. Stewart reported that this is scheduled to go on the warrant this year.

Mr. DiMaggio made a motion to approve the minutes of June 18, 2003 as amended. Mr. Fletcher seconded the motion. Motion approved. Mr. Stewart abstained.

Ms. Killam called a five-minute recess at 8:01 P.M.

The Public Hearing was opened at 8:06 P.M.

Ms. Killam stepped off the Board and Mr. DiMaggio took the chair.

Public Hearings:

Continued from June 18, 2003

- 1 Dean & Susan Killam continued review of an application (under jurisdiction 5/14) for a proposed five lot residential subdivision of 15.4 Acres of property located at 49 Westside Drive, Map 11, Lot 9, TR2 Zone.**

The abutter's list was read with the following present: Dean & Susan Killam; Sublime Civil Consultants, Inc.

Sublime Consultants reported that the ownership issue was still a major concern. Peter Lewis has presented a sketch of the water lines and this was added to the plans. Discussion followed on the size of the line and it was confirmed that it is a 6" line. The existing line is 4" but the proposed line is 6". Mr. Earley questioned the existing 4" line feeding a 6" line and this was researched further. It was determined that there is a 6" or 8" line to the hydrant and then it reduces for the last part of the Millstream cul de sac. It was noted that the plans have to be signed by a professional engineer before accepted. Sublime Consultants assured the Board that accurate information on the existing lines will be obtained.

The Board reviewed the Millstream Crossing plans and they showed a 6" main the entire length.

The Planning Board will check Millstream Crossing subdivision plan. It calls for a 6" main all the way through. They will request an 'as built' from Peter Lewis otherwise they will go on the approved plan.

Mr. Keach's review letter was reviewed:

Zoning Matters: 2) There was originally a 50' side setback on platted Lot 11-9-4, which should have been 30'. When this was corrected all the side setbacks were changed to 30'. Just one lot should have been changed to 30'. This will be corrected.

Planning/Design Matters: 1) Three easements need revisions - On Lot 11-9 the easement line should not be there and will be erased. The fourth lot of the subdivision has a drive access easement to get through the lot with the existing house on it. The easement got extended onto the property and should have stopped at the property line. This will be corrected. It was recommended that a drainage easement be provided in the area of construction on platted Lot 11-9. This will be done. All other issues are minor and will be addressed.

The hearing was opened to abutters. No comments were noted.

Ms. Killam asked who provided the placement for the hydrant shown and asked that the Fire Chief be contacted to confirm the location. Mr. Earley will take care of this. Ms. Killam also discussed abutter Patricia Walker who has an issue with the way a lot line is drawn. Ms Killam stated that the line might be adjusted to give her more back yard.

Mr. DiMaggio discussed the letter from Attorney MacMillan regarding the ownership of the right of way and felt that the Board should not get involved in a potential legal issue. Ms. Killam responded to the statement in Attorney MacMillan's letter - 'further, when the Millstream Crossing Subdivision roadways were accepted by and deeded over to the Town of Atkinson they did not include the subject right of way'. Ms. Killam stated that there were no deeds created and he is leaving an erroneous impression. In response to the statement in the letter that, should the Town of Atkinson persist in its efforts to aid the developer in obtaining this right of way without proper compensation, they will pursue legal action, Ms. Killam noted that this letter came in 24 hours after Mr. Lemery told her that he wanted an opportunity to buy the lot. Ms. Killam stated that she was prepared to work with him in that direction but where the letter threatened law suit with the Town as a respondent it was not appropriate for her to work with Mr. Lemery until she understands Mr. Lemery's intentions. Ms. Killam was hopeful that the Public Hearing on August 4th would clarify everyone's intentions. She added that if they come to an agreement and Mr. Lemery is no longer contesting, there is no purpose for the public hearing.

Mr. Earley made a motion to go into Executive Session. Mr. Fletcher seconded the motion. Motion approved unanimously.

The Board went into Executive Session at 8:36 P.M.
The Board came out of Executive Session at 8:47 P.M.

Ms. Killam referred to RSA 676:4 Ic to f and requested a 90 day extension.

A motion was made by Mr. Earley to extend jurisdiction for 90 days based on the applicant's request. Mr. Stewart seconded the motion. Motion approved. Mr. Fletcher abstained.

A motion was made by Mr. Earley to continue this hearing to August 20, 2003. Mr. Stewart seconded the motion. Motion approved unanimously.

The hearing was closed at 9:50 P.M.
Ms. Killam returned to the Board and took the chair.
The next hearing was opened at 9:53 P.M.

New Application

2 Cornerstone Survey Associates for Paul & Kathryn Regan submission of a 3 Lot Residential Subdivision Plan on 30.90 Acres for Acceptance and Formal Consideration on property located off Maple Avenue (Good Dog Road Subdivision), Map 9, Lot 49, TR2 Zone.

The abutter's list was read with the following present: Andrew Cannon; William Friel; Charles & Leallana Ginsberg; Cornerstone Survey Assoc. K. Hatch; Paul & Katherine Regan

Ms. Killam reported that abutters Richard & Kathleen Meaney are previous owners and left the area a year ago. Mr. Hatch added that he just found out about this and will notify the present owners by certified letter.

Ms. Killam noted that a question on the application was not answered. Mr. Hatch stated that there is no part of the parcel under current use. The question was answered and initialed.

Mr. Hatch reported that the road proposed is an open field adjacent to the applicant's house. The proposal is for an approximate 900' road to a cul de sac. The applicant wants two lots off of that road at this point. The two lots are a little over 2 acres and have suitable well and septic locations on sight. The road will be served by underground utilities. The cul de sac has some granite curbing to take care of some of the run off and take it to the treatment devices prior to entering the wetland. The entrance at Maple Avenue has been designed to pick up some of the run off.

Mr. Hatch stated that most of Mr. Keach's review letter issues are housekeeping details. Mr. Hatch addressed the items involving road design. The maximum grade is 8 1/2%, 6% in a horizontal curve. The cul de sac is built up substantially following that 8 1/2% grade.

Ms. Killam reported that this plan was going to be brought before the Board some time ago and that she had concerns that the Health Officer had some conflict of interest. Mr. Keach reported that this area was excavated in 1995. The maximum number of lots is approximately seven. Ms. Killam asked what the appropriate way would be to document the following: If the test pits were done in 1995 which would make them 8 years old, and the revision block showing Planning Board Application 8/13/01, how would you document this. There should be something on the plan to reflect this in the revision block. Mr. Keach suggested leaving the date on the plan and start with the next revised plan as being the first revision. Mr. Hatch stated that he would amend all the revision blocks on this application.

Mr. Hatch suggested the Board bypass jurisdiction and allow the abutters to speak. Ms. Killam noted that there is another error on the abutter's list. Thomas & Mary Merrick also left the area a year ago and another family of 'Merrick's' live there. It was noted that the abutter's list was old and had not been updated.

Mr. Keach's letter was reviewed.

Planning/Design Matters: #1 Mr. Keach referred to Section 600:1 and 700:3 and noted that there was no high intensity soil survey done. The lots are over 2 acres of continuous output. When asked if the application was ready for acceptance, Mr. Keach stated that there are some issues but the Board has accepted applications this complete. Hiss mapping has been done but is not shown on the plan. Mr. DiMaggio asked if the two lots could be mapped and shown on the plan. Mr. Hatch agreed to do this. All other items in #1 and item #2 are minor and will be corrected. #3 The right of way bound be set on the easterly line of Maple Avenue at the intersection of that line with the southerly line of the platted Good Dog Road right of way. #4 Plans should go to the Fire Department for review. #5 Refers to the soil based lot sizing requirements. #6 That sheets 4, 5 and 8 be stamped by the Certified Wetland Scientist who performed the wetlands delineation shown. #7 The note above the title blocks on Sheets 4 & 5 be revised to note there are 8 rather than 7 sheets in this plan set.

Beginning with item #8, Mr. Keach referred to the road plan on Sheet 6:

#8 The design of radii of all pavement curves and flares be specified on Sheet 6 of 8. #9 A MUTCD R1-1 'stop' sign and street name sign be specified for installation at the intersection of Good Dog Road with Maple Avenue. #10 The F280 finish grade contour line on Sheet 6 of 8 is mis-drawn since it suggests grading within existing pavement at Maple Avenue. #11 Drainage may become trapped at the intersection of Good Dog Road and Maple Avenue. It is recommended the design engineer recheck design grades in this area. #12 The

project plans should specify the installation of underdrain between Sta. 0+30 and Sta. 5+75-right on Good Dog Road. #13 The project plans specify underground utilities shall be installed within the proposed roadway right-of-way; define the location where they will be installed and indicate service stubs to be installed to each platted lot so as to avoid the need to excavate completed roadway construction at the time individual homes are constructed. #14 The platted right-of-way and proposed pavement widths be specified on Sheet 6 of 8 for Good Dog Road. #15 It is recommended that a level spreader be installed at the end of the proposed ditch line at Sta. 4+00± right. #16 Driveway aprons for each platted lot to be accessed from Good Dog Road should be shown on Sheet 6 of 8. It is recommended that these aprons, through the platted right of way limits, be constructed contemporaneously with this road to avoid disruption of completed work at the time of residential construction. It is also recommended that a typical design detail of driveway apron construction be added to the plans. #17 It is recommended the Road Agent comment on this provision.

#18 The design engineer should consider relocation of the proposed cul-de-sac bulb since the proposed location necessitates difficult grading with 1.1 fill slopes that do not conform to the Road Specifications and Regulations. The regulations limit such slopes to a maximum of 2.1.

Discussion: Mr. Keach suggested Brad McKenzie, Design Engineer, do an offset cul-de-sac. Mr. Hatch had no problem with this as long as the Fire Chief accepts the offset cul-de-sac. Ms. Killam asked if this configuration would serve the future use of the lot should the subdivision be expanded. Mr. Keach stated that he does not see the road being extended in length with the horizontal alignment as proposed.

#19 Guardrail, placed on a two-foot gravel shoulder extension should be provided where fill embankment slopes exceed 4.1.

#20 Mr. Keach questioned Sheet 6 of 8 that depicts the design of a proposed driveway accessing the rear of platted Lot 9-49. A residential structure already exists on this lot adjacent to Maple Avenue.

Discussion: Mr. Hatch reported that this proposal had an additional lot there. The landowner still needs a way to get to the property.

#21 Regarding the planned vertical alignment shown on Sheet 6 of 8, Mr. Keach offered the following comments:

1. It was recommended the alignment match to the existing edge of pavement at Maple Avenue. This profile should note the station and elevation at this match point.
2. The 'K' value of the crest vertical curve at PVI Sta. 0+75 is too low.
3. The proposed roadway slope exceeds that permitted under Sections 410:13 and 410:15.

Discussion: A waiver will be needed from 6 to 8 1/2%.

Items #22 through #27 are minor issues.

Mr. Stewart made a motion to not take this application under jurisdiction because of improper abutter notice. Mr. Earley seconded the motion. Motion approved unanimously.

All abutters will be renotified.

The hearing was opened to abutters.

An abutter presented an article to the Board at the request of abutter Alan Swanson who was not present at this meeting and it was added to the folder. Mr. Swanson's major issue is the number of wells that were dug on Maple Avenue last year, water and water quality. Ms. Killam stated that his issues are determined by the Master Plan and the Planning Board does not have the authority to change it. Mr. Friel has concerns on drainage and how it will effect his property. Mr. Keach stated that there is enough land present to absorb the water and went over the plan with Mr. Friel. The abutters asked what happens if this plan doesn't work. Mr. Hatch stated that the developer must post a bond before approval is granted for, not only the cost of the road, but for any additional work that may be necessary until the road is accepted by the town.

Mr. Stewart felt that, if the water situation is a town concern, the Planning Board should be more educated regarding this. Mr. Killam agreed that the Board is not armed well enough to answer questions residents may have regarding water issues. She felt that Rockingham Planning Commission might be able to help. Mr. Stewart expressed concern with snow storage. He asked Mr. Hatch to supply a space for snow storage. Mr. Keach stated there must be enough space between the curb and the guardrail. Mr. Stewart requested 12' off the edge of pavement for snow storage. Mr. Hatch will work on it. Mr. Hatch asked if a wooden guardrail would be acceptable. Mr. Earley stated that when the slope is resolved the Board would discuss the guardrail.

The hearing was closed with no continuance and no jurisdiction at 10:08 P.M.

Mr. Earley made a motion to adjourn. Mr. Fletcher seconded the motion. Motion approved unanimously.

Meeting adjourned at 10:10 P.M.

Next scheduled Planning Board Meeting August 20, 2003.

APPROVED _____ Respectfully submitted,

Carol Kater