

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing Meeting
Wednesday, September 21, 2005

**Present: Susan Killam, Chairman; Chuck Earley; Harold Morse (7:40);
Mike Fletcher (7:50); Ted Stewart**
Alternates: Donna Sullivan; Joseph Guishard (7:45); Tim Dziechowski
Ex-Officio: Selectman Jack Sapia
Town Engineer: Steven Keach (8:00)

Ms. Killam called the meeting to order at 7:30 PM.
Ted Stewart, Chuck Earley and Donna Sullivan left the meeting to answer an
emergency call at 7:35 PM and returned at 7:55 PM.

Correspondence

Incoming

1. Selectmen minutes dated 7/25, 8/8/05
2. State of NH, DOT Driveway Permit to Paul Busby dated 8/17/05 for south side of Route 111.
3. State of NH, Dept of Environmental Services dated 6/30/05 re: Drinking Water Source Assessment Reports. James Lavelle Associates dated 8/29/05 re: Lot Line Change, Jamie Stephenson, Map 14, Lot 86-1&2.
4. City of Haverhill Public Hearing meeting notice for 9/14 & 9/27/05.
5. Zoning Board of Adjustment Legal Notice for Public Hearing 9/14 & 9/20/05.
6. Michael Murphy, Fire Chief letter dated 9/14/05 re: Hydrant vs. Access Road on Jameson Ridge Subdivision.
7. D. Paul DiMaggio, Jr. memo dated 9/14/05 re: Fire Lane vs. Hydrant on Jameson Ridge Subdivision.
8. Michael Murphy, Fire Chief letter dated 9/16/05 re: 9/21/05 meeting.
9. Planning Board Budget Printout dated 8/31/05.
10. Keach-Nordstrom Associates letter dated 9/2/05 re: Deer Run Road Extension bond estimate.

Mr. Morse made a motion to recommend to selectmen the bond for Deer Run Road in the amount of \$142,294.32. Mr. Guishard seconded the motion. Motion approved unanimously.

11. Keach-Nordstrom Associates Invoice dated 9/6/05 re: Carpenter/Houde Lot Line Adjustment.
12. Keach-Nordstrom Associates letter to Selectmen dated 8/29/05
13. State of NH, DOT dated 9/12/05 re: Meeting on planning process.

The State of NH is making a sum of money available for the towns affected by the I93 project. This money, 3.5 million for growth management approximately \$80,000 per town, will be divided among the towns to provide technical assistance over a five-year period. This will be discussed at the meeting. Tim Dziechowski, Sue Killam, Ted Stewart and Jack Sapia will attend.

Outgoing

1. Memo to Selectmen dated 8/24/05 re: Jameson Ridge Project.
2. Legal Notice for PB Public Hearing Meeting of 9/21/05.

APPROVAL OF MINUTES - CONTINUED TO THE NEXT MEETING.

The Public Hearing was opened at 8:03 PM.
Mr. Dziechowski stepped off the Board.

PUBLIC HEARINGS:

Rita Betourney submission of an Application for Formal Consideration and Approval of a proposed Two Lot Subdivision of land (12.74 Acres) with 5.24 Acres to remain with existing lot at 12 Willow Vale and 7.51 Acres, an unbuildable lot to be donated to the Town of Atkinson, Map 14, Lot 2, TR2 Zone.

The abutter's list was read. Present: Harvin & Rita Betourmay; David & Ellyn Murphy; Robert Cote; James Lavelle Assoc., LLC.

Mr. Lavelle presented a corrected plan of a parcel of land being donated to the town. Mr. Keach did not present a review letter because all the corrections have been made. The frontage of this subdivision can be dealt with administratively by this Board under RSA 674:54. The boundary is a stone wall. Mr. Keach suggested the well servicing the home be depicted on the plan.

Ms. Killam observed that there is nothing that shows how townspeople could access this parcel. Mr. Lavelle stated that the land will support habitat and should remain open space. It is a scenic road and the land will not be developed. The abutter to the north has no interest in developing his property.

Discussion followed on the legalities of the town accepting this land and the Board asked that the selectmen review this before the land is accepted. Mr. Sapia felt that this would be a question for Town Counsel. Mr. Betourney stated that if they were creating a problem by cutting off access it was deliberate. It was the intent to keep the parcel access free and that it remains open space. They could make access available if necessary.

Mr. Stewart made a motion to take this plan under jurisdiction. Mr. Earley seconded the motion. Motion approved unanimously. Mr. Sapia did not vote.

Mr. Lavelle asked for a vote of approval conditioned on the Selectmen accepting the land, the addition of the well on Note 7 and the correction of a spelling error.

Mr. Earley made a motion to approve the plan of Rita Betourney of a proposed Two Lot Subdivision of land (12.74 Acres) with 5.24 Acres to remain with existing lot at 12 Willow Vale and 7.51 Acres, an unbuildable lot to be donated to the Town of Atkinson, Map 14, Lot 2, TR2 Zone conditioned on the text changes put forth by Steve Keach and Mr. Lavelle relative to the Soil Scientist and subject to the Selectmen's approval of the plan. Mr. Stewart seconded the motion.

Discussion: Mrs. Betourney asked when the Selectmen would act of this. Mr. Sapia stated it would be discussed at the next Selectmen's Meeting. Mr. Steve

Lewis asked if the land was being transferred with any restrictions. Mr. Lewis referred to a mature strip of trees that he would like to have remain with the land. Ms. Killam stated that there could be a conservation easement document attached to the deed. Mr. Keach stated that the intent should be made clear on the deed.

Vote of the motion: Motion approved unanimously.

The hearing was closed at 8:30 PM.
The next hearing was opened at 8:31 PM.

An Amendment to Subdivision Regulations Section 360. 'PROHIBITIONS' which would add a new subsection 360:3 to protect the longevity of citizen rights to own land under the 5th Amendment to the Constitution of the United States.

Add new Subdivision Subsection 360:3 to read:
Subdivisions on land acquired through "Eminent Domain" shall be restricted in use to Local, State, or Federal governmental public sector uses, and only if said uses provide direct access and use to and by the public. Private or Public development of such land, solely for financial gain or revenue enhancement, is prohibited.

Mr. Morse asked why this was being done and the reason was discussed briefly.

Mr. Earley made a motion to approve the Amendment to Subdivision Regulation Section 360 'PROHIBITIONS' and add new Subdivision Section 360:3. Mr. Fletcher seconded the motion. Motion approved. Mr. Morse opposed.

The hearing was closed at 8:37 PM.
The next discussion was opened at 8:40 PM.

Discussion

Steven Lewis - General Discussion regarding Settler's Ridge Project.

Steven Lewis is before the Board to discuss unfinished business regarding the Jane Jones land. When the Jones land was purchased a 2-acre lot was detached with the intent to use the density and transfer it to Settler's Ridge. The original plan for Settler's Ridge was recorded in 1997, in 1999 a two-lot subdivision was created and in 1999 the lot line adjustment for the 2-acre parcel. Mr. Lewis intended to redo the site plan so this section has remained undesignated. This land is a 'mature growth forest' which, Jane Jones wanted to see remain. This forest abuts the present Atkinson forest and Mr. Lewis would like to designate this land as public domain.

The ownership is Settler's Ridge Inc. Mr. Lewis stated that this 7.15 acres being discussed is a stand-alone parcel. Mr. Dziechowski thought that the Lot Line Adjustment needed to be undone. Ms. Killam noted that the Lot Line Adjustment made it legal because of the frontage but it was never conveyed to owners of Lot 12-1 on the deed. A different Lot Line Adjustment plan would be presented which would then convey the parcel to the town. The parcel will be appraised and Mr. Lewis and his partner will take half of the appraised amount. This would be a distressed sale.

The Board discussed the possibility of undoing the lot line adjustment plan and attaching an affidavit at the registry to the most recent plan. Discussion continued on how this transaction would be accomplished. Mr. Lewis will seek advice on this matter.

Mr. Keach read Section 676:4a - Revocation of Recorded Approval. A Notice of Revocation is filed at the registry and at the same time record the Notice of Voluntary Merger. A public hearing would be needed and abutters noticed. Page 418 and 419 was referenced.

The discussion was closed at 9:02 PM.
The next discussion was opened at 9:04 PM.

James Lavelle re: Minor Change to previously approved Lot Line Change for Jamie Stephenson, East Road, Map 14, Lot 86-1 & 86-2.

Mr. Lavelle was not present for this discussion.

The next discussion was opened at 9:05 PM.

Susan Killam - Jamison Ridge re: Clarification of intent of the Plan re: Emergency Access Road.

Letters have been received from the Fire Chief and Mr. DiMaggio about a fire lane coming through Winslow Drive vs. a hydrant at the top of Woodlawn. Discussions have followed regarding the timing of the construction of the fire lane access through Winslow Drive to Woodlawn. Specifically, looking at the regulations to determine if the fire lane access is a piece of infrastructure that needs to be completed prior to occupancy permits being issued. Ms. Killam thought the Selectmen would make a ruling on this but, after consulting with their attorney, the Selectmen sent this back to the Planning Board.

Mr. Stewart made a motion that the fire access road stated on the plan be completed prior to Occupancy Permits according to our Subdivision Regulations. Mr. Fletcher seconded the motion.

Discussion: Ms. Killam read a letter she wrote to Selectmen. Re: Section 380:4.

The minutes of April 2004 were also referenced in the letter. The requirement for the fire road access came about as a request by the fire chief dated March 21, 2005. Copies of the plan were attached to the letter showing a road cross section which explains how it has to be built and paved. There is a deeded easement for a 30' access road.

Brian Boyle presented a letter from Town Counsel. He felt the question before the Board was not 'is the road going to be built' but 'when the road/land will be built'. He asked the Board to consider the regulations referring to Section 600:18. He noted that nothing on the 12' access comes close to meeting town road regulations. The question before the Board is the issuance of Occupancy Permits not what's part of the road bond. Mr. Boyle reported that Town Counsel's letter referenced RSA's that talk about withholding Occupancy Permits. He read RSA 676:12. He stated that there is nothing in the minutes or the approval letter that made the access road a condition of approval. Mr. Boyle stated that he is not challenging what is on the plan and considered this road an off site improvement. He noted that he does not control that right of way.

Mr. Stewart stated that there is 50' of roadway on the site and the right to do the work was given to the developer by the Board accepting the plan. Mr. Stewart agreed that building permits could not be denied before infrastructure is complete. Zoning Regulations deny Occupancy Permits until infrastructure is in place.

Mr. Morse suggested that Mr. Boyle might be able to do a portion of the road at a time. Doing enough work to get some Occupancy Permits if it can be done safely while this issue is being resolved. The portion of the road being paved should always be in front of the house being worked on. He felt that this had nothing to do with an off site road. Ms. Killam stated that the question is does this predate Occupancy Permits or not. Once we get that answer Mr. Boyle can request a waiver of some quantity of units, which can be addressed. Mr. Sapia asked if the right of way was on the original plan approved. It is on the approved plan not the original plan. Mr. Fletcher stated that this has been discussed for the past four months and asked to move the question.

Mr. Cote, a resident, noted that if we had hydrants we wouldn't be here today. He would like to see a hydrant in place. Peter Lewis felt the road would not accomplish anything noting that it will never be used or plowed in the winter. It will be gated and no one will open it.

Vote of the motion: Motion approved 6 to 1.

Ms. Killam read a letter from the fire chief suggesting the Board reconsider the emergency access road for the installation of a pressurized hydrant on Woodlawn Ave. He believed there was new information that would provide a secondary access through the schoolyard that would allow emergency access to the Woodlawn and Birch Lane Road area if needed. Ms. Killam stated that, in

order to accomplish what this letter is suggesting it would require an amendment to the site plan. A Public Hearing with abutter notification is required.

Mr. Earley stated that what is being proposed is that we do away with the road in favor of a hydrant at the other end of Woodlawn Ave. Mr. Stewart is in the process of building another exit that should satisfy Chief Consentino. The school owns the land and an easement is not required. The town has permission to plow and maintain the parking lot. This access road and parking lot is for the Little League and will be done at no cost to the town. The discussion about hydrants and Winslow Ave. is secondary to the parking issue and it happens to satisfy the police department.

A letter from Mr. DiMaggio was read. He submitted his opinion that he would be happy with the hydrant in lieu of the access road and that Mr. Boyle contribute to the grubbing and graveling of the parking lot.

Ms. Killam noted that she has not seen anything presented that suggests that this is a permanent solution to accessing streets that do not have a secondary means of access and egress. Mr. Earley felt that this would be just as good as the access road. Mr. Sapia noted that this new option does not provide the second access and felt this is a life safety issue.

Mr. Stewart stated that the hydrant would provide more water for the school, library and the town hall and the cost would be decreased. Mr. Cote could not understand how the Board could vote against a hydrant vs. a gate.

A poll of the Board showed most members in favor of the hydrant. Ms. Killam and Mr. Fletcher were in favor of both the access road and the hydrant if it were possible. Mr. Earley noted that the original plan called for sprinklers.

Ms. Killam noted that we are planning for the future and she would like to see the access way maintained and a hydrant as well.

Mr. Boyle will come in with an amended site plan and will request a waiver.

The discussion was closed at 10:05 PM.
The next discussion was opened at 10:16 PM.

Tim Dziecowski - Village Plan Alternative Development Zoning

Mr. Dziecowski asked if this plan had ever been considered in the past. This plan lets you do an 80/20 split where 80% of the land is open space and 20% is buildable. Lot size and setbacks disappear. This is a tight cluster. The advantage to the developer is much smaller infrastructure demands and the town has more public open space. He is looking for zoning that does not penalize the

developer for making part of that public. Mr. Keach discussed Regulation 674:21. The Board agreed that this was something to think about for the future.

Mr. Earley reported that the Verizon Building has 1 tree missing from the landscaping plan. He reported that they will comply with the plan and a tree will be added.

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

The meeting was adjourned at 10:20 PM.
Next scheduled Workshop Meeting - October 5, 2005.

APPROVED _____ Respectfully submitted,

Carol Kater