

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing Meeting
Wednesday, November 16, 2005

**Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:45);
Chuck Earley; Harold Morse (7:42);
Alternates: Donna Sullivan; Joseph Guishard; Tim Dziechowski (7:48)
Ex-Officio: Selectman Jack Sapia
Town Engineer: Steven Keach (8:05)**

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

Correspondence

Incoming

1. State of NH, Dept. of Environmental Services dated 11/3/05 re: Rock Ridge Development Site Specific Approval for Route 111, Map 20, Lot 35-1 dated 11/3/05 WPS-7327.
2. SFC Engineering, re: Revised Site Plans for Rock Ridge Development, Route 111, Map 20, Lot 35-1.
3. Keach-Nordstrom Associates dated 11/4/05 re: Lot Line Adjustment Plan on Carpenter & Houde, Westside Drive, Map 17, Lots 29-2 & 30 revision review.
4. Keach-Nordstrom Associates dated 10/24/05 re: Invoice of account balance for Austin Realty Trust Subdivision, Deer Run Road, Map 16, Lot 1.
5. Zoning Board of Adjustment dated 11/14/05 to Attorney Bernard Campbell re: Hammond denial of Appeal Rehearing request.
6. City of Haverhill Legal Notices for meeting of 12/6/05.

Outgoing

1. Memo to Selectmen dated 11/7/05 re: Planning Board membership.

APPROVAL OF MINUTES - November 2, 2005

The minutes of November 2, 2005 were reviewed and the following corrections were made:

Page 2, first large paragraph, third last sentence to read 'The application of Federal Grants must be in by January 20, 2006'.

Page 4, third paragraph, first sentence, change 'Corrine Cheney' to 'Nicole Cheney'.

Mr. Earley made a motion to approve the minutes of November 2, 2005 as amended. Mr. Sapia seconded the motion. Motion approved. Joe Guishard and Donna Sullivan abstained.

Ms. Killam has been attending a conference with Shirley Galvin and Donna Sullivan and she reported on this briefly. She presented handouts to the Board from the conference on issues such as Eminent Domain, Mosquito Control, etc.

All members will be voting with the exception of Tim Dziechowski.
The Public Hearing was opened at 8:00 PM.

Ms. Killam stepped off the Board and Mr. DiMaggio took the chair.
Mr. Dziechowski will vote in place of Ms. Killam.

PUBLIC HEARINGS

1. Attorney Bernard Campbell for Jeffrey & Diana Fay submission of an Application for Formal Consideration and Approval for a proposed Amendment to previously approved Cluster Subdivision 'Millstream Crossing' to modify conditions of approval to allow structures & septic systems to within 50' and dwellings to within 100' of the perimeter of the submitted project. Property located off Westside Drive, Map 11, Lot 11, TR2 Zone.

The abutter's list was read. Present: Jeffrey & Diana Fay; Phillip & Kimberly Mastriano

Attorney Beaumont is filling in for Attorney Campbell and is the attorney of record. This proposed amendment is before the Board to effectively reduce the buffer size in the cluster to make it conform to what the current zoning now allows. Ms. Killam was confused with the way the notice read on the agenda and Section 622 was referenced.

Attorney Beaumont seeks relief under Section 622 of the Ordinance, which allows minor amendments to subdivision plans, specifically those that have buffer zones previously established. Attorney Beaumont referred to 17 Millstream Crossing which was purchased in 1999. At the time it was purchased the subdivision provided for 100' buffer zones. Two years later the ordinance was amended and an adjustment was made to the buffer zone. Under Section 611B 'Single Family Residential Cluster' the buffer was reduced to 50'.

The petitioner requested a permit from the Building Inspector to install and in-ground swimming pool on the property, which was denied. The petitioner was referred to the Zoning Board of Adjustment but the Zoning Board refused to accept jurisdiction because it is a Planning Board issue. The Planning Board has the authority to make minor amendments to an existing subdivision plan as long as the overall density of the subdivision is not affected.

Ms. Killam noted that the change that was made regarding buffer zones was for fee simple lot ownership subdivision. The subdivision being discussed is not only a cluster; it has both single family and condos in it.

Attorney Beaumont stated that he was not aware of this issue and asked if the Board could continue this hearing to another date when Attorney Campbell would be present. It was the consensus of the Board that this discussion will continue to allow them to put together more accurate information so that an accurate decision can be made.

The original plan was reviewed. It was understood that this is a request to amend the entire subdivision but because there is mixed housing the situation is different. No variances have been issued to residents in the subdivision to date. After some discussion and review of the plan Mr. DiMaggio could not see a problem with this amendment.

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

The meeting was opened to the public. Mrs. Mastriano stated that she had tried to get relief for 13' to install a swimming pool and was denied by the Zoning Board. Mr. DiMaggio felt that an amendment to the entire subdivision might have been available to her at that time.

Mr. Dziechowski asked if one petitioner could amend the entire subdivision without input from other homeowners. Mr. Morse stated that this amendment would make it less restrictive so that it can be done. It would be different if the amendment would make it more restrictive. The action will not affect the condominiums but will bring the plat into consistency with the current zoning. Mr. DiMaggio asked if the developer is the only one who can bring in an application to amend a subdivision and this was discussed. Ms. Killam stated that if the developer still had ownership interest in the parcel he could bring it in. In this situation, it would be the landowner.

Ms. Fay submitted a letter signed by some of the residents of the subdivision stating that they support this amendment. The consensus of the Board was that they would support this amendment. Ms. Sullivan asked that they remove two names from the list of residents listed on the letter who live on Hitchcock Lane. Hitchcock Lane is not part of the subdivision.

Mr. Morse made a motion to approved the Application of Attorney Bernard Campbell for Jeffrey & Diana Fay for Consideration and Approval for a proposed Amendment to previously approved Cluster Subdivision 'Millstream Crossing' to modify conditions of approval to allow structures & septic systems to within 50' and dwellings to within 100' of the perimeter of the entire Millstream Crossing Subdivision. Property located off Westside Drive, Map 11, Lot 11, TR2 Zone (Ref. 26231) with the following conditions: Notification of the Registry of Deeds asking that this change be recorded on every parcel deed. The request from Attorney Campbell will be included in the record. Mr. Earley seconded the motion. Motion approved unanimously.

Attorney Beaumont withdrew his request for a continuance.

The hearing was closed at 8:50 PM.

Ms. Killam returned to the Board and resumed her voting status.

The next hearing was opened at 8:50 PM.

2. Giles Gagnon submission of an Application for Formal Consideration and Approval for a proposed Site Plan of a 14,400 sq.ft. (60x240') Industrial - 9 Unit Warehouse Building for property located at 12 Industrial Way, Map 16, Lot 50, CI Zone.

The Abutter's List was read. Present: James Lavelle Associates.

Mr. Lavelle presented this building on a 2.2 acre lot. The plan is to use it for general warehouse and commercial use. There are plans to rent out the facility.

Mr. Keach's letter was reviewed and Mr. Lavelle did not see any problems with his recommendations. There is more than adequate parking - 18 spaces required - they are providing 26. There is room for fire access but the plan is not marked as such. Some site work has been done already. Conservation Commission stated that there are no wetland issues on this site.

Mr. Keach stated that this is a well-prepared plan. One state permit is necessary for an on-site septic system as well as a local driveway permit prior to issuance of a building permit. There were no zoning deficiencies. Mr. Keach recommended a Letter of Intent be prepared and that a drainage report be submitted. Mr. Keach requested a copy of the septic system design plan be included in the site plan. Mr. Keach requested a detail of guardrail construction. The landscape plan is contained in a portion of Sheet 3. This plan will meet the requirements. A couple of evergreens are recommended on a berm as a buffer to a residential area. The rest of the items are minor. Mr. Keach suggested a Restoration Bond for approximately \$10,000 per acre of disturbed land plus bonding for the erosion as a condition of approval. Mr. Keach also recommended that the Board make it very clear that a certificate of occupancy shall not be issued unless the site work is substantially complete and that assurity for any incomplete work be provided to the Building Department. Mr. Keach will provide some suggestive language on the bonding issue.

Mr. Morse made a motion to take this plan under jurisdiction as presented and to send copies to all Department Heads. Mr. Earley seconded the motion. Motion approved unanimously.

The hearing was opened to the public with no comments noted.

Mr. Earley made a motion to continue this hearing to December 21, 2005. Mr. Morse seconded the motion. Motion approved unanimously.

The hearing was closed at 9:12 P.M.
The next hearing was opened at 9:13 P.M.

3. Michael & Denise Chambers submission of an Application for Formal Consideration and Approval for a proposed Subdivision Plan to create 2 Single Family Building Lots on property located at 43, 43A Main Street, Map 4, Lot 5, TR2 Zone.

The Abutter's list was read. Present: Michael & Denise Chambers; Abraham Goldstein & Christine Maffeo; Town of Atkinson; James Lavelle Associates.

Mr. Lavelle presented this 5.2 Acre Lot to be split into two Lots one 2.15 Acres and the other 3.12 Acres. The existing dwelling unit on the property is on the 2.15 Acre parcel. A NHDOT driveway permit has been received and the number will be added to the plan. NHDES Subdivision and Wetlands is pending for a crossing to get to the buildable area. On site well and septic, test pits have been done.

Mr. Keach's letter was reviewed. Mr. Lavelle had no problem with the recommendations in Planning/Design Matters.

Zoning Matters #1 - states references Section 530 of the Zoning Ordinance, each lot within the TR2 District must have a minimum of 200-feet of frontage on a Class V or better public street. As platted, Lot 5 has only 193.54-feet of frontage. Because of this the Board is not able to take this plan under jurisdiction. Section 490:1 was read.

Mr. Lavelle was aware that there would be FDPA issues on driveway width. There are wetlands and they have requested dredge and fill for the 20' road. The decision to sprinkle has not been made. Mr. Lavelle requested a continuance.

The hearing was opened to abutters. An abutter had a question as to where the proposed house would be built on the lot and what it will do to the drainage onto her property. Mr. Lavelle showed the abutter his plan. She had concerns with the septic system and the runoff. Mr. Lavelle assured the abutter that there would not be a problem. The culvert is engineered to handle the flow. Mr. Goldstein, 35 Main St., was concerned that the flow of water to his property will increase. Mr. Keach explained that it could always increase, but it won't. There are no guarantees. The Wetlands Board will also be looking at any change of flow.

Mr. DiMaggio left the room. Mr. Dziechowski voted in his place.

Mr. Earley made a motion to continue this hearing to December 21, 2005. Mr. Sapia seconded the motion. Motion approved unanimously.

Mr. Lavelle will apply to the Zoning Board to request a Special Exception under Section 490:1. Mr. Keach recommended he apply for a Special Exception and a Variance simultaneously. If the Special Exception is approved the Variance request will be dropped. Due to a change in the date of the Zoning Board

Meeting it was recommended Mr. Lavelle get the applications in as soon as possible.

The hearing was closed at 9:35 PM.

New Business

Mr. Earley handed out the most recent National Fire Protection Codes. Any changes in the codes come before the Board for their approval twice a year. Mr. Earley called attention to two codes, NFPA 1 and NFPA 101. Both of these codes have a substantial change. The codes state that 'all new single family houses will be sprinkled'. Mr. Earley stated that we do sprinkle many buildings. The Planning Board makes this decision with Fire Department recommendation. Mr. Earley did not think this was a major step for the Fire Department and noted that the Fire Department would not go forward with this without the blessing of the Planning Board. He added that the Fire Department would like to see this happen.

He handed out two pamphlets, one is a government study for Atkinson 1994 which talks about the importance of sprinkling. The other is the Atkinson Master Plan in 1989 there is a section on planning. That year the Fire Department had 200 calls and they are now up to 442. This also talks about the importance of sprinklers.

Mr. Earley was not expecting any decision this evening. He will publish this list as always for a Public Hearing. He asked if this list could be passed as is with the changes in the two codes.

Mr. DiMaggio felt that this is a major change and appreciated the fact that Mr. Earley presented the changes separately and brought them to the attention of the Board. He stated that he is not in favor of sprinklers in all new homes. Mr. Sapia asked what it would cost a homeowner to sprinkle and how much of a burden it would be. Mr. Morse stated that he could figure it out, he didn't have the figures off hand. He noted that there are pros and cons to this. Mr. Earley noted that the volunteer fire departments are on the way out and that Atkinson is very lucky to have the volunteers we have and that the Fire Department is working well.

Mr. DiMaggio suggested that the Board let the Town decide, noting that this is a huge change. Even if the Planning Board gives their blessing the people in town will make the decision. All commercial and multi family units are sprinkled at this time.

Consensus of the Board - Mr. Earley will put this on the agenda for the next meeting and the code changes will be worked on separately to present to the town.

Ms. Killam handed out the calendar for the Public Hearing Schedule for Zoning Changes. The changes will be discussed at the next meeting.

Ms. Sullivan made a motion to adjourn. Mr. Morse seconded the motion. Motion approved unanimously.

The meeting was adjourned at 10:00 P.M.
The next scheduled Public Meeting - December 7, 2005.

APPROVED _____ Respectfully submitted,

Carol Kater