

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing/Workshop Meeting
Wednesday, December 3, 2003

**Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:45);
Chuck Earley; Mike Fletcher (7:46) Harold Morse (7:49); Nicole Cheney
(7:40)**

Alternates: Donna Sullivan; Joseph Guischart

Ms. Killam called the meeting to order at 7:33 P.M.

CORRESPONDENCE

Incoming

1. City of Haverhill Legal Notice for meeting of 12/10/03.
2. Engineering Alliance, James Hanley letter dated 11/19/03 re: Waiver Request – Cluster Subdivision, 33 Maple Avenue.
3. Town of Hampstead memo re: Storm Water Management meeting 12/11.
4. Selectmen Minutes dated 11/3/03.
5. Employment Security updated Town of Atkinson Profile.
6. PB Budget printout dated 12/1/03.

APPROVAL OF MINUTES - November 19, 2003

The minutes of November 19, 2003 were reviewed and the following corrections made:

Page 3, first paragraph, first sentence to read: 'Ms. Killam asked if they had an adequate landing platform at the cul de sac'.

Page 3, item #13, add after second last sentence: 'Mr. Earley stated the light should be right across from the road to light the intersection'.

Page 7, #5, first NFPA 20 Code: change 'Pipes' to 'Pumps'.

Mr. Earley made a motion to approve the minutes of November 19, 2003 as amended. Mr. DiMaggio seconded the motion. Motion approved unanimously.

Ms. Killam announced the regular Public Hearing meeting will be on December 17th and the meeting for the Proposed Zoning Changes will be December 18th. Both meetings will be at 7:30 P.M.

The Workshop Discussion was opened at 7:50 P.M. and the Agenda was taken out of order.

Workshop Discussion

3. Proposed Housekeeping Amendment proposed by ZBA to establish the Zoning Board of Appeals as the Atkinson Building Code Board of Appeals to bring the town into compliance with the requirements of RSA 674:51.

Frank Polito, Chairman of the Zoning Board of Adjustment referred to RSA 673:1. Section V in Building Codes which allows you to establish a Building Inspector, which we have but there are no provisions to the establishment of a Building Code Board of Appeals. Town Counsel suggested that the regulation be amended to allow for the establishment of a Building Code Board of Appeals.

Section 674:34 talks about what the powers of the Building Code Board of Appeals are. This will allow an applicant to appeal a decision made by the Building Inspector and the specific criteria by which the Board can make a decision is listed. Section 674:51 is important because that is the power by which the town establishes Building Codes. Mr. Polito noted that any new building code regulation put before the town should be reviewed by the State Building Code Office.

The last section in the Building Code is #1200. Mr. Polito is proposing adding #1300 to the Building Code - Appeals to Decisions of the Building Inspector. Under the Provisions of RSA 674:51, 673:1 and 674:34 the Zoning Board of Appeals shall act as a Building Code Board of Appeals. The BOCA regulations can be used as a guideline in any decisions.

Some discussion followed with Mr. Polito on the Conservation Commission proposal. Mr. Polito noted that the proposal is well intentioned but did not feel it made it any easier for the Zoning Board of Adjustment to make their decisions. He added that, since the change in the definition of 'hardship', you couldn't summarily dismiss variances to wetlands. He noted that there is no such thing as grandfathering. A lot that was subdivided as a buildable lot cannot be made unbuildable because the wetland zoning is changed. Mr. Polito would have liked the proposal to define more clearly 'Special Exception' and list the conditions.

The Zoning Board of Adjustment's proposal to establish the Zoning Board of Appeals as the Atkinson Building Code Board of Appeals was brought forward to the First Public Hearing for Ballot on December 18, 2003.

The discussion was closed at 8:11 P.M.
The next Public Hearing was opened at 8:12 P.M.

Public Hearing:

1. Proposed Amendments to the Building Codes to adopt the latest available revisions to the following previously approved National Fire Protection Codes:

NFPA 20 Installation of Stationary Pumps for Protection

NFPA 30 Flammable and Combustible Liquid Code
NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages
NFPA 33 Spray Application Using Flammable or Combustible Materials
NFPA 34 Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 51B Fire Prevention During Welding, Cutting and other Hot Work
NFPA 86 Ovens and Furnaces
NFPA 1901 Automotive Fire Apparatus

Mr. Morse made a motion to approve the Amendments to the Building Codes to adopt the latest revisions to the approved National Fire Protection Codes. Mr. Fletcher seconded the motion. Motion approved unanimously.

The Public Hearing was closed at 8:16 P.M.
The next Workshop Discussion was opened at 8:17

2. Chuck Earley discussion regarding the proposed NFPA #1141 Fire Protection in Planned Building Groups.

The definition on Pg. 5 #11415 - 3.329 of Planned Building Rules was reviewed. Multiple structures constructed on a parcel of land excluding farmland under the ownership control of the development by an individual, corporation, a partnership or a firm. Mr. Earley stated that as long as buildings are sprinkled the height of a building is not an issue to the Fire Department.

Mr. Earley asked that this proposal be brought forward with the Planning Board's recommendation. The proposal will be written up and will be on the agenda at the Public Hearing tomorrow.

The discussion was closed at 8:35 P.M. and a 5-minute recess was called.
The next discussion was opened at 8:40 P.M.

1. Scott Kukshel discussion regarding the proposed Wetland Zoning Changes.

Mr. Kukshel was not present for this discussion. This was brought in last year for the designation of prime wetlands. The Conservation Commission was instructed to educate the public on this issue and work on the document before bringing it to ballot. The draft being discussed is the result. Ms. Killam polled the Board for their opinion:

Mr. DiMaggio felt it was repetitive and difficult to work with. The intent to protect wetlands and our water supply is good but he was not sure this was how to get there. He felt a chart was needed of prime wetlands, structures, setbacks etc. and footnotes to the chart to make it more readable.

Mr. Morse felt it prevents development and a lot of it is left to interpretation.

Mr. Fletcher stated that it is a land taking and that it erodes personal property rights.

Mr. Guishard felt that it is taking local control away from the towns and asked what percentage of the town is wetland.

Ms. Sullivan felt the package is too large for the residents to vote on and too confusing to put on the ballot as one package.

Mr. Earley felt that if the Board took as long as they did to review the package the voting public would never read it and understand it. He also felt it was restrictive.

Ms. Cheney agreed that there should be stricter regulations to prime wetlands. Ms. Killam brought Ms. Cheney up to date on the seven proposed designated prime wetlands that was before the board last year. Ms. Killam had requested that the Conservation Commission notify all the potentially impacted landowners. Two educational sessions were held. Chris Manzer, whose property is mostly wetlands, is present this evening and he told the Board that he attended one of the sessions. He stated they were educational in defining what a prime wetland is but did not offer any solutions for the landowners. Mr. Kukshtel had told Ms. Killam previously that he sensed he was meeting a lot of resistance from people because of the implication of the state process that would be involved. Instead of pursuing this, the Conservation Commission decided to write the proposal before the Board tonight. They made room for prime wetlands, but have not designated any at this time. The seven prime wetlands were changed to a town definition of Ecologically Significant Areas.

Ms. Cheney stated that Atkinson's regulations are one of the most restrictive wetland regulations that she has seen in her professional career. She also felt the proposal was very wordy. They don't allow existing lots of record. Mr. Morse referred to the statement in the document that states - 'The purpose of this wetland conservation regulation is to protect the public health, safety and general welfare'. Ms. Cheney stated that the wetlands are supposed to purify your ground water but when you have a buffer zone of 150' it's already clean and filtered. Ms. Cheney felt that the 100' buffer makes sense when it is next to poorly drained soil next to wetland.

Mr. Manzer stated that the issue is whether you regulate the wetlands at the town level vs. the state level. If you want the wetlands to remain in the town more restrictive regulations are needed. Ms. Cheney noted that to go to the state is more costly and is a lengthy application.

Ms. Killam felt that this is an administrative and enforcement hassle to make it work. As you read through the detail, it has impact on existing parcels with

existing buildings which thrusts the administration to the building department issuing building permits level. The conditional permitting has to be done through the Planning Board before a building permit can be issued. The Board also had a problem with holding Joint Hearings and the hiring of soil scientists by residents. Ms. Killam was concerned with 'no structures' which would be more restrictive. Ms. Killam suggested the Conservation Commission produce a map that would show what this district might look like in order to show the extent of control. Ms. Cheney thought this would be difficult to obtain. Pg. 6 Buffer Restrictions was reviewed which indicated more enforcement issues.

Mr. Manzer had a question about cutting firewood in the buffer and in the wetland. This was discussed briefly. Mr. Manzer noted that he has a list of hardships involving his property. Mr. Manzer also has a problem with where they have drawn a line for ecologically significant soil. Ms. Killam advised him to discuss it with the Conservation Commission.

The consensus of the Board was that this proposal is not ready to move forward. Ms. Killam will meet with Mr. Kukshel to inform him of the Board's issues. Ms. Killam reminded the Board that this has been posted and is in effect. The Board recognized the work that was done on this proposal.

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

The meeting was adjourned at 9:40 P.M.
Next scheduled Planning Board meeting December 17, 2003.
First Public Hearing for ballot items December 18, 2003

APPROVED _____ Respectfully submitted,

Carol Kater