

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

First Public Hearing Ballot Text
Thursday, December 18, 2003

Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman; Michael Fletcher; Chuck Earley; Harold Morse

Ms. Killam called the meeting to order at 7:50 P.M. and introduced the Board Members.

**An Amendment to the previously approved National Fire Protection Codes to adopt the following:
NFPA 1141 - Standards for Fire Protection in Planned Groups (2003 Edition)**

The purpose of this standard is to reduce the impact of a fire in a planned building group in suburban and rural areas where there might be limited fire department resources, extended fire department response time, delayed alarms, limited access, hazardous vegetation, unusual terrain, or unusual characteristics.

Mr. Earley reported that the Building Group would be owned and managed by an association. Roads would be privately owned. Mr. Earley spent some time with Chief Murphy going over this and he felt that it was a great piece of legislation for planning purposes. There are some items in the code that the Fire Department will not take responsibility for i.e.: parking lots, grades, side slopes, intersections, etc. The Fire Department is interested in fire protection, water supply, road size, sprinkler systems and building heights. Mr. Earley expressed concern with the heights of new homes noting that the highest ladder they have is 35'.

This standard in no way affects single family homes that are privately owned, existing homes, condominiums or other cluster type developments.

Ms. Killam read into the record a memo from Frank Polito, Town Moderator, dated 12/18/03 re: NFPA 1141 summary text.

Comments from the Board:

Mr. Fletcher asked who would administer the items the Fire Department would not be involved with. Mr. Earley did not want to give the impression that the Fire Department would interfere with how roads are constructed, etc. He felt that the Road Agent would handle road issues.

Mr. DiMaggio noted that during the construction phase one person or a partnership usually owns subdivisions. He assumed that if the developer keeps control this could apply to a grid subdivision. Mr. Morse agreed that the standard

could be interpreted two ways in some areas. Mr. DiMaggio noted that Atkinson has many of these standards in place now and felt that this standard is more for hazardous vegetation, unusual terrain and unusual circumstances.

Mr. Morse found the wording shallow and noted that it gets complicated. Many areas are more restrictive.

Ms. Killam felt that there is a lot of detail in the document that is either more restrictive or, in small ways, conflicts with what we have in place today. She found it very complex to figure out how to add this to what we are currently doing. There are some good tools in the document for future development.

Ms. Killam opened the hearing to the public.

Brian Boyle stated that he understood the intent. He asked, if this was adopted, would anything over 35' need to be sprinkled. Mr. Boyle felt that the Town of Atkinson is ten years ahead of this standard noting that we already have a lot of this in place. Mr. Boyle expressed the same concerns that the Board had.

Bob Jones noted that, in the Fire Department, a 30/70 split takes precedent. He referred to Chapter 8, 811, all structures more than 3 stories shall be fully protected with sprinklers. The next chapter, 811 - 812, any residential building containing more than two residential living units shall have automatic sprinkler systems. Does that mean that anything less does not need sprinklers in this provision. Mr. Earley stated that 811 is single family, three stories and 812 is a multi family. Mr. Jones felt that the voters would never understand this.

Peter Lewis felt that the Town of Atkinson is beyond this code.

Frank Polito stated that we have volunteers in this town and a democratic form of government. He has become more convinced that, as a town, we are not doing as good a job as we should putting these ballot items together. He added that it should be crystal clear to the voters what they are voting for. When he read this standard he had no idea what it meant. Mr. Polito advised the Board that these proposals should never get to the Public Hearing process of a legal posting without the Planning Board knowing what it is they are putting forward. He felt that no one on the Board until tonight knew what was being posted. The Planning Board should understand what they are putting up to the voters and it should be well thought out. Ms. Killam said that the criticism is noted and agreed. Mr. Morse also agreed with his comments.

The hearing was closed to the public.

Mr. DiMaggio made a motion not to put this forward to the voters. Mr. Morse seconded the motion. Motion approved unanimously.

An amendment to Wetlands Zoning, Section 410 that would repeal the present wetlands ordinance and replace it in its entirety for the following purpose:

- 1. To define new a "Wetlands Conservation District" which comprehensively includes wetlands and certain wetland buffer areas around those wetlands.**
- 2. To change the current fixed size of wetland buffer zone to a size, which is variable, dependent on the functional value of the particular wetland.**
- 3. To better define the permitted uses/alterations of wetlands and wetland buffers, and the conditions under which those uses/alterations are allowed to occur.**

Ms. Killam noted that this proposed amendment has had at least six hours of public discussion before tonight and it still is not ready.

Mr. Kukshel stated that this was discussed at the Planning Board meeting last night and it was apparent that the Planning Board feels it is not ready to go forward and would most likely not get to the ballot.

Mr. Kukshel went through the Article and discussed the items. The definition of a wetland is an issue and this was discussed as well as vernal pools, permitted uses, conditional use permits, variances, lot size determination and how all of this would be administered. Mr. Kukshel noted that we would be using the state wetland definition. Mr. Kukshel stated that the Conservation Commission and the Planning Board has some expertise and could work this out together. Ms. Killam stated that it has to be amended to where the homeowner is not held up for an undue amount of time because the Planning Board does not meet more than once a month.

Ms. Killam opened the hearing to the public.

Frank Polito, Chairman of the Zoning Board of Adjustment, stated that the first time he read this Article it was very intimidating. After reading it again he found that a lot of what is described in the Article is being done ad hoc by the ZBA. Mr. Polito referred to the court case he was involved in regarding Sleepy Hollow. This was a piece of property subdivided years ago that ended up as an unbuildable lot because the previous owner came to the ZBA looking for a 50' setback as opposed to 100' and could not pass the 'hardship' criteria. The Supreme Court has since redefined what 'hardship' is which makes it a lot easier to grant a variance. Mr. Polito added that the wetlands zoning we have today is not working. It keeps the ZBA very busy and in fact forces them, ad hoc, to make decisions that may not be as consistent as they should be. He noted that the ZBA has no set rules to go by and variances to wetlands are usually granted. Mr. Polito applauded the work that Mr. Kukshel did on this Article and felt that

the Article is not as bad as he originally thought. He was aware that this could not go to ballot as written

Mr. Polito's personal opinion was that some of the sizing could be adjusted and the size of structures allowed should be looked at. The most important pieces to be worked on are administrative. He felt an easy solution to this would be to steer many cases to the ZBA with the Planning Board handling the more difficult ones that are mostly associated with new subdivisions. The administration of this Article should be made a lot simpler. His last comment was to delineate between a variance and a special exception and he explained the difference. If this Article was properly edited and crafted it would keep the ZBA from being inconsistent in the future. Mr. Polito was not sure if there was time to resolve this and get it to ballot. He offered to assist Mr. Kukshel in getting it in shape. Even in its current form most of it is better than what is being done today.

Brian Boyle complimented the Board and Mr. Kukshel for the work they have done on this and felt a good job was being done addressing the issues. Mr. Boyle supported the intent and encouraged everyone to work quicker.

Bob Jones, Building Inspector commended Mr. Kukshel on the work he has done on this Article. Mr. Jones had a concern that, if someone comes in for a building permit, and the wetlands have to be determined, where do we start. He felt that a little fine-tuning would give the Building Department some guidelines.

Mr. Kukshel stated that it shouldn't be too difficult for the Conservation Commission to provide the tax map with wetlands and buffers overlaid on it so that the building inspectors could make a determination. Ms. Killam felt that the map would be a critical part of the process.

Mr. DiMaggio went along with all the comments made. He felt that there was no reason why the building inspectors, if they were given a set of conditions, couldn't be the ones to make a decision on a certain level.

Pete McVay had concerns with the previous speakers who were intimidated by this Article the first time they read it but found it better the next time they read it. What will be the reaction of the average voter when they read this and how can this be avoided. Ms. Killam felt that there are some edits in process that are aimed at clarifying the process as well as the use of charts to simplify the effect. Mr. Polito commented that if this makes the ballot this year there is a reasonably good chance it may fail the first time. This could take two years because it may take a sales job to get it through. He felt the time was worth it.

Ms. Killam announced that the last day to post and public notice is January 9, 2004 and the last day for the meeting is January 20, 2004. Section 675:3 was reviewed.

Mr. Fletcher made a motion to reject this proposed amendment in its present form. Mr. Morse seconded the motion.

Discussion: Mr. Morse agreed that there is a lot of work to be done and that the public needs to be educated. Mr. Earley stated that four nights were spent on this and he hoped it could be fixed. Ms. Killam felt that a lot has been accomplished and that most of the issues that need to be corrected have been identified. She added that not much time has been spent in fixing it. The suggestion was that the next 30 days be spent on this. She noted that other people should be involved in this as well. The question was raised if there would be time to work on this. Mr. Kukshel felt he could come up with a second draft. Mr. DiMaggio felt that the process should be continued. Mr. Earley noted that he has not heard anything different at this meeting than last meeting. Mr. Earley and Mr. DiMaggio hoped they would have seen some changes in the draft this evening.

Vote on the motion: 2 in favor - 3 opposed. Motion failed.

Mr. Morse made a motion to continue this proposed article to January 7, 2004. Mr. Fletcher seconded the motion.

Discussion: Mr. DiMaggio suggested that charts be inserted for easier reading. Mr. Morse wanted to see the buffers reduced by 50'.

Vote on the motion: Motion approved unanimously.

Ms. Killam asked for volunteers to work on this Article with Mr. Kukshel. Mr. Manzer suggested better notification of these meetings. Peter Lewis noted that this Article would impact 90% of the landowners in Atkinson.

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

The meeting was adjourned at 9:35 P.M.
Next Planning Board meeting - January 7, 2004.

APPROVED _____ Respectfully submitted,

Carol Kater