

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, February 19, 2020**

Members Present:

Sue Killam, Chair
Mike Turell, Vice Chair
Paul DiMaggio
Ted Stewart
John Ottow, Alternate

Others Present

Julie LaBranche, Rockingham Planning
Paul Wainwright, Chair Conservation
Commission

Call to Order:

Chair Killam called the meeting to order at 7:55 PM. She informed the audience that there was no public hearing and the Planning Board would continue in a workshop format. Chair Sue Killam, Vice Chair Mike Turell, Members Paul DiMaggio, Ted Stewart and Alternate John Ottow were present. Chair Killam invited Mr. Wainwright and Ms. LaBranche to the table. Mr. Wainwright has put in his application to become a member of the Planning Board. Karen Wemmelmann, Recorder, has also returned.

The Board continued its discussion of Zoning – Definitions, Permitted Uses, and other required zoning updates regarding Assisted Living Facilities, Congregate Care Facilities and Nursing/Skilled Nursing Care Facilities. Chair Killam handed out a list of ideas to the Planning Board Members.

Correspondence: not discussed

Minutes: January 8, 2020, January 27, 2020, February 5, 2020 - not reviewed

Discussion:

1. Zoning – Definitions, Permitted Uses, and other required zoning updates regarding Assisted Living Facilities, Congregate Care Facilities and Nursing/Skilled Nursing Care Facilities

Members discussed the definitions for these types of facilities and where these types of facilities could be allowed.

Chair Killam had some questions regarding memory care and age restricted facilities for Ms. LaBranche. A big question is what the Planning Board is zoning for, there are many new types of facilities entering the market.

Vice Chair Turell has reviewed some studies regarding whether property values would be affected. One website is “A Place for Mom” which has a lot of good information and links.

Chair Killam stated that the first question should be where these facilities could be allowed. Vice Chair Turell stated that he has studies showing that these types of facilities would not affect property values and could be located in any zone. However, the study also found that the best locations would be residential zones near shopping and other facilities. Atkinson does not have shopping but Ms. LaBranche commented that residents could be transported to shopping. Member DiMaggio agreed. Member Stewart commented that a small facility could fit anywhere but the Industrial Zone would be best for a large facility due to its proximity to Rte. 111 and parking availability. Member DiMaggio stated that the Commercial/Industrial Zone would also work. Chair Killam agreed. Member Stewart stated that it is a commercial enterprise although it is a type of housing. Member DiMaggio stated that some types of these facilities could work in the Commercial/Professional Zone. Member Stewart would like zoning for these types of facilities to be supported by the voters.

Chair Killam stated that the location of the facility should depend on type and size. The Board discussed size of the facility. Member DiMaggio informed the Board that surveys have shown that the average size across the country is 37 - 53 beds, and the lowest for profitability is 16 beds. The average requirement is 283 square feet per bed. Chair Killam suggested that the Board should make up a permitted use chart with the size of the unit. Vice Chair Turell read from surveys that the minimum size for a single occupancy room is 100 square feet and for a double occupancy room is 186 square feet. Member Stewart pointed out that the size of the facility also includes public areas such as dining facilities. He also stated that no one is going to make money in Atkinson building the smallest size facility because of the land values.

Ms. LaBranche suggested the Board arrange a field trip to visit a facility in Exeter, it is a small campus with various housing units to accommodate different needs. It is comparable to cluster housing. Member DiMaggio stated that Atkinson Cluster Zoning would be a good start because it requires a minimum of 10 acres. Ms. LaBranche stated Congregate Elderly Care is either condominiums or assisted living and would be the worst burden for traffic issues. The other types are more static. Vice Chair Turell stated that Congregate Elderly Care is condominiums where there may be medical care or there may be a dining facility. Senior Living and Communal Living are similar. Rooms are not shared.

Chair Killam asked about facilities where residents enter at one level and then can go to other levels as their needs increase. Mr. Wainwright stated that these are Continuing Care and requested to discuss it. He visits Riverwoods, a continuing care facility. Usually, residents start with a small apartment or condominium, then move on to independent living and assisted living where meals are provided. Skilled nursing care can also be provided. The entry fee is from \$200,000 to \$500,000. The estate of the resident gets 90% of the entry fee back when the resident passes. The Board continued to discuss Continuing Care Facilities. Member DiMaggio stated that the average monthly fee for continuing care is \$5,300 but can be as low as \$2,000 a month.

Mr. Wainwright stated that Riverwoods has 3 campuses. Member DiMaggio stated that there is a continuing care facility in North Andover. Vice Chair Turell stated there is one also in Groveland.

Vice Chair Turell stated that Continuing Care Communities can also be housed in one building with the first level being used by independent living residents, the second by assisted living and the third as a nursing home. Graystone in Salem is one example. Vice Chair Turell stated that there are several in Haverhill.

Chair Killam stated that she likes the idea of Continuing Care Communities but there should be a line for other types of facilities. Member DiMaggio stated that the Town should have Zoning Regulations for all types of facilities.

Member Stewart stated that there should be a 10-acre minimum and Continuing Care Communities should meet cluster zoning requirements. Chair Killam pointed out that the lowest quantity for a small nursing home to be profitable is 16 beds, which could be fit in a double house and could go anywhere. Member Stewart stated that the voters would not approve a nursing home in a residential area, and if it were allowed town wide, they should meet Atkinson cluster zoning restrictions. Member DiMaggio stated that it is not whether it will make money, the issue is the type of facility and the size of the plot.

Ms. LaBranche stated that cluster zoning would not apply to nursing homes or congregate, it does for aged restricted or independent living. For something like congregate care, you would be sizing for number of rooms. The issues would be septic, parking and lot size.

Member Stewart stated that what Ms. LaBranche described is apartments that are age restricted and apartments are not allowed. The issue should be regulations for soils and septic systems. Member Stewart understands the necessity to allow these facilities town wide, but that it would be an issue for residents who do not want an apartment building as a neighbor. Vice Chair Turell agreed. Member DiMaggio stated that the Board should look at the cluster for the fact that they were put away from view. 10 acres may not be a bad minimum size. Chair Killam stated that cluster zoning regulations come from DES regulations for sizing septic systems. Member Stewart pointed out that Settlers Ridge has 24 units on 3 acres with septic and off-site water and DES approval.

Member DiMaggio suggested that developers be given incentives for lower income units. Vice Chair Turell stated that these people are just renting rooms.

The Board discussed whether first responders would need to service the facility. The Board also discussed who would pay for ambulance calls. Medicare pays for the ambulance. Member Stewart pointed out that four first responders also show up for every Trinity call and the taxpayers pay for it. Vice Chair Turell informed the Board that

ambulances do not go to these facilities all the time and that there are first responders in the facilities.

Member Stewart is concerned about the plans for these buildings. Zoning is not the only issue.

Chair Killam stated that clusters have a 200-foot setback by zoning. The buildings in the SCR subdistrict by the golf course have different regulations. She is not sure if it works for intense density of development. It is concerning to her that when the developers came before the Board, they were concerned about their location. The developers attempted to tell the Board that because it was a commercial use, density is not relevant. The SCR district is written differently than any other residential zones in Atkinson. It was written to allow 288 condos in 9 buildings.

Chair Killam quoted from Atkinson Zoning Ordinance 620:7a – Residential Density:

Residential dwelling unit density shall conform to the requirements of the RR-2 District. However, in order to provide for private, non-subsidized elderly housing alternatives, and where public or community water systems, and municipal, public or community sewage treatment plants and services are available, the residential density within a RRRC shall be calculated as four bedrooms per one-acre lot

Ms. LaBranche stated that allows for one bedroom per quarter acre. For really good soils, a lot size of 20,000-30,000 square feet could be allowed for a 3-bedroom house.

Member Stewart stated for the Board to allow these facilities anywhere in Town, septic and public water would need to be provided.

Alternate John Ottow suggested that the first goal would be to start with the definitions and divide them into possibly five different groups. The Board could start with the least restrictive, go through each type and define what they are. Mr. Wainwright suggested the Board look at Exeter zoning. Member DiMaggio stated that he has it and it is very minimal. Exeter combined affordable housing with elderly care.

The Board discussed how much money the facility would need per person to make a profit, the minimum amount being \$2,500. Vice Chair Turell stated that the cost per bed also includes other services such as dining facilities and on-site medical care.

The Board discussed what assisted living communities should provide, some ideas are on-site medical care, meals, and also transportation. The quarter acre per unit requirement by the State would be irrelevant if public water and sewage treatment were provided. The four acres would include a buffer, service road and parking.

The Board discussed what services an assisted living facility should provide. Medical waste and transportation should be provided. Vice Chair Turell informed the Board that

his research showed that assisted living should provide one-three meals per day, monitoring of medication, personal care, housekeeping and laundry, 24-hour emergency care, social and recreational activities.

Ms. LaBranche stated that assisted living or nursing homes should be treated as a commercial business and they should pay for all services. The Town should not have to pay for anything. Chair Killam is concerned that the residents of assisted living and nursing home are citizens of Atkinson and can request services. Member Stewart remarked that the Town may be required to provide transportation services. The Board agreed that any facility should be treated as a commercial enterprise. Ambulance services should be the responsibility of the facility operator. Ms. LaBranche stated that Medicare pays for ambulance services and the Town would be reimbursed. Member DiMaggio read that the facility should also be responsible for lock outs. The Fire Department needs to assist with lock outs. Member Stewart stated that the Fire Department frequently gets lock out calls. Member DiMaggio read that the facility should also be responsible for rubbish disposal. Chair Killam informed the Board that the Town picks up trash on Industrial Way. Member Stewart informed the Board that the Town picks up Trash but not dumpsters.

Chair Wainwright asked if the Town would have some responsibility because the residents would be citizens of the Town and if the Board should examine condo documents.

The Board discussed definitions for different types of assisted living. Chair Killam asked if Congregate Care and Continuing Care Community are the same. Member Ottow stated that one end of the spectrum is senior care and age restricted. The other end is nursing home, memory care or hospice. The middle is assisted living, congregate care and communal living. Congregate Care includes all stages. Then, density and septic must be decided for each type.

Member DiMaggio read from JCH which is a senior housing investment brokerage. It states that Congregate Care is for residents 55 or older, where limited assistance or no assistance for daily activities is required and state issued license is not required. Assisted Living Facilities, Skilled Nursing Facilities and Independent Living Facilities are among the most popular choices for senior housing. Congregate Care could be considered if the investor is looking for less government oversight.

The main difference between Congregate Care and Assisted Living Facilities is that Assisted Living could provide some services. Continuing Care has different stages. Chair Killam is researching age restrictions. Atkinson has 288 approved condominiums on the golf course and the plan sets state that they are age restricted 55 and over. The Board discussed whether 55+ communities are legal.

Chair Killam read that under The Fair Housing Act amended, one exception is where at least one person is 62 or over, the second is where at least one person 55 or older.

The Housing for Older Person Act discusses 55+ or age restricted housing means that at least one person in the unit is 55 or over.

When the condominiums were approved, they were strictly for people age 55 and over.

Ms. LaBranche stated that she would check it out. When the units were approved, they were approved as exclusively 55 or older. Ms. LaBranche stated that she would research it.

Ms. LaBranche suggested that the Board could allow this use as an overlay district, with its own zoning regulations. Considerations could be number of buildings, size, how much living space per resident, etc. Ms. LaBranche suggested that the Board research what other Towns have done. Vice Chair Turell stated that he has checked and there is not much.

Member DiMaggio stated that there was a case in California where the Court found that it did not matter if the minimum number of units to be profitable is 16, if the Zoning only permits four units, then there cannot be an exception. Another case concerned zoning was where all the elderly housing would be in a trailer park, the New Jersey Court ruled that the zoning was legal.

2. **CIP Committee:** not discussed

New/Old Business: not discussed

The next meeting of the Atkinson Planning Board will be a workshop on Wednesday, March 4, 2020.

Vice Chair Turell made a motion to adjourn the February 19, 2020 meeting of the Atkinson Planning Board at 9:10 PM. Member DiMaggio seconded the motion. All members present voted in favor. Vote: 5/0/0.

Chair Killam adjourned the February 19, 2020 meeting of the Atkinson Planning Board at 9:10 pm.