

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, November 18, 2020**

Members Present:

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

Others Present

Steven Keach, Town Engineer
Julie LaBranche, Rockingham Planning
Tim Lavelle, Lavelle Associates
Sue Coppeta

Call to Order:

Chair Killam called the meeting to order Wednesday, November 18, 2020 at 7:30 PM. The hearing time is 8:00 PM.

Chair Killam read a statement regarding video hearings pursuant to State Executive Order 2020-04. In summary, the Board is authorized to meet electronically. There is public access by telephone or by Zoom. Instructions for accessing the meeting are on the Town website and on the Town Facebook account. The station manager can be contacted if there are problems accessing the meeting. The phone number for the station manager is 362-4545 and the email is stationmgr@atkinson-nh.gov. If the public is unable to access the meeting, it will be rescheduled.

Chair Killam requested a roll call attendance: Chair Killam, Dean Killam is in the room; Vice Chair Turell, alone; Member DiMaggio, alone; Alternate Paul Wainwright, alone; and Member Stewart, alone;

Correspondence: not reviewed.

MINUTES: November 4, 2020

November 4, 2020

Vice Chair Turell made a motion to approve the November 4, 2020 minutes as presented. The motion was seconded by Member Stewart.

Discussion: Member Stewart was not present at the November 4, 2020 meeting.

Member Stewart withdrew his second. Member DiMaggio seconded the motion.

Roll Call: Chair Sue Killam, Vice Chair Turell and Member DiMaggio voted in favor. Alternate Wainwright and Member Stewart abstained. Vote: 3/0/2. The motion passes.

New/Old Business:

Planning Board members discussed the building budget. The Budget Committee removed many recommendations from the building budget. Member Stewart is meeting with the Town Administrator to discuss the budgets for the departments he is in charge of. The Planning Board is responsible for the capital improvement plans. Changes to the Maple Street culvert were also discussed. It is prone to flooding. Another issue is a lot line discrepancy. A homeowner built a shed over the boundary with Ruth Marshall Forest.

8:00 PM Public Hearings:

An Application for Site Plan submitted by James Lavelle Assoc. for Gilley's Realty LLC for the construction of a parking lot (with reclaimed asphalt) for the purpose of storage and occasional sales of heavy equipment on property at 19 Industrial Way, Map 16 Lot 56 in the CI Zone.

Chair Killam informed the Board that enclosed with the application is a letter of intent from the owner. Chair Killam read the letter of intent into the minutes.

Alternate Ottow arrived at the meeting and stated he is alone.

Abutters:

Town of Atkinson, present; Gagnon Realty Trust, Gagnon, Giles, TTE; Mya Victoria, LLC; Gilley's Realty, LLC; James Lavelle, Assoc., present; Timothy Ferwerda, Soil Scientist; Amoskeag Engineering Consultants, PLLC; Kenneth L. Bucu

Tim Lavelle, Lavelle Associates appeared before the Atkinson Planning Board to represent the applicant. He informed the Board that the proposal will finish what the former owner, A-Rod Realty started by having a parking lot. A gravel lot was proposed the first time. This applicant is proposing a repurposed asphalt parking lot. The applicant would like to put construction equipment there. Most of the equipment is on site, but some must be stored. The applicant also proposes to buy and sell some equipment, which is the reason for the sales office. It is not the majority of his business.

The drainage patterns are basically the same as the old approved site plan. The drainage ponds may have changed somewhat. Two entrances are proposed rather than one.

The variance may be over the two year period so it may be expired by RSA. The issue is whether the variance was used. Mr. Lavelle believes that the variance was utilized and received conditional approval on the site plan. Chair Killam

believes that it got conditional approval but the conditions were never met, therefore the approval lapsed.

Mr. Lavelle stated that if the applicant does not have a variance, one will be needed for this proposal he will have to submit a request for variance to the Zoning Board and asked the Board how to proceed.

Mr. Keach explained his views regarding exercising the variance within the two year limit. A two year expiration for a variance was added to New Hampshire statutes in August of 2013. In the case of Atkinson, the two years listed for exercising the variance is a default, the statute recognizes the abilities of municipalities, either by ordinance or stipulation to decide. The time period cannot be less than two years. Mr. Keach wrote the comment regarding an expiration date for the variance before speaking with the Planning Board Administrator. He did not have the language attached to the Notice of Decision.

Mr. Lavelle explained that there was no mention of an expiration date for the variance in the notice of decision and the applicant did not appear before the Zoning Board.

Mr. Keach explained that if the variance is prerequisite to a subsequent Planning Board application, it remains in for not less than six months subject to the conclusion of the Planning Board process. A site plan was conditionally approved in the intervening time and the conditions were never satisfied. That plan lapsed and six months after that the variance lapsed.

The other thing that may be relevant to the discussion is the list of items that the prior variance permitted for outdoor uses on the property was a lot broader and less specific than the current proposal. He advised Mr. Lavelle that if he does go back to the ZBA, to make certain that the use variance received is precisely what the applicant proposes doing with the site and that it is all inclusive. The Planning Board will rely on that variance when they consider approval of the application.

Mr. Lavelle stated that he went through the letter by Mr. Keach and took care of everything he could. He will meet with the applicant.

Chair Killam stated that Alternate Wainwright may have some questions. Alternate Wainwright stated that he took a walk on the conservation land abutting the property. He noticed that paving operation had already started and also that there was a lot of debris and riprap in the 50 foot strip on the right hand side. It prevents access to the conservation land.

Chair Killam informed Mr. Lavelle that work should not begin without an approved site plan. Mr. Lavelle stated that work had stopped.

Mr. Stewart suggested the Mr. Lavelle ask the applicant about erosion control. They didn't pave, but they spread millings which has the same effect. The applicant should agree to install the erosion control before the next Planning Board meeting. Mr. Lavelle stated that he would call the applicant to find out when the erosion control will be installed. Mr. Stewart agreed to meet with the applicant to discuss what was needed. He pointed out that there is a pre-existing site plan with erosion control.

Member DiMaggio asked where the conservation right of way is located. Alternate Wainwright informed the Board that there is a Town-owned fifty-foot strip of land that got moved from another location. It is shown on the right hand side of the plan. The rip rap is partially on Town land.

The Board members discussed the residential set back on Map 16 Lot 12-1 which received a variance. It is the back boundary to the Judge Marshall Town Forest. The strip on the right of this parcel is included in Lot 12-1.

Chair Killam explained that industrial uses are allowed in that zone. Parking is considered an ancillary use, there are no buildings, so a variance is required.

Mr. Keach stated that the reference plan with the lot line adjustment that created the present configuration of the site is cited on Note 4 of the cover sheet and shows the Town land.

Note 5 is missing so the notes will have to be renumbered.

Chair Killam asked Mr. Lavelle if he would like the Planning Board to take the application under jurisdiction and Mr. Lavelle stated he would not.

Ms. LaBranche stated that Note 11 is asking for a waiver for the 150 foot buffer to the residential zone. The plan proposes 50 feet. A waiver request in writing must be submitted. Mr. Lavelle stated that he would submit it.

Chair Killam asked if there were more questions. There were none.

Chair Killam informed Mr. Lavelle that he has time to submit the request for variance to the Zoning Board and asked if the applicant would submit the plan for the December meeting of the Zoning Board. She asked if he wished to continue to the Planning Board meeting of December 16, 2020. Mr. Lavelle agreed.

Vice Chair Turell made a motion to continue the hearing for an Application for Site Plan submitted by James Lavelle Assoc. for Gilley's Realty LLC for the construction of a parking lot (with reclaimed asphalt) for the purpose of storage and occasional sales of heavy equipment on property at 19 Industrial Way, Map 16 Lot 56 in the CI Zone to December 16, 2020. Member DiMaggio seconded the motion.

Discussion: Alternate Wainwright asked if he should abstain. Chair Killam informed him that six members were present, including alternates so he can vote.

Roll Call Vote: Chair Killam, yes, Vice Chair Turell, yes; Member DiMaggio, yes; Member Stewart, yes; Alternate Ottow, yes; and Alternate Wainwright, yes. Vote: 6/0/0. The motion passes.

New/Old Business: Chair Killam asked if Ms. LaBranche had any comments regarding long term care facilities. Ms. LaBranche informed the Board that she has some recommended edits which she will send to the Board members the day after the meeting. She stated that if the first hearing is at the workshop in December, then a second hearing could not occur until January.

She also stated that the title of the new ordinance section, “Long Term Care Communities” may be a bad choice. “Long Term Care Development” may be better, the members of the Board agreed. The other issue is the wording single-family and multifamily, single dwelling unit and multi dwelling unit might be better. Under Section 4, references under site plan approval procedures, should state site plan regulations, In Clause 4200:4 the wording should be changed to long term care developments. She thinks that the language “a suitable parcel situated in any zone” is vague. She suggested, “on any parcel situated in any zone that can meet the required standards under the site plan regulations”.

Also, under criteria for approval under Section C, which talks about “the distance between structures including any projections” should be reviewed by the Fire Chief. Also, an allowance for decks should be included. The Board members and Ms. LaBranche continued to discuss the wording in Section C. Member Stewart stated that if the Planning Board wants a minimum of 25 feet between structures, then building anything else should not be an issue. Ms. LaBranche stated that it must be very clear that nothing else can be built into the buffer zone. Ms. LaBranche stated that there should be a note on the plan that there shall be no breach into that space. Chair Killam agreed with Ms. LaBranche that it could be better stated. Member DiMaggio stated that it should be in the condominium documents as well.

Ms. LaBranche stated that ownership would only be possible in the single unit and multi-unit buildings, not in the congregate living buildings and whether the single and multi-unit buildings would be individually owned, rented or if people would be paying a fee is a question. Member Stewart stated that if the Planning Board writes the Zoning, that should be all that is needed. The owner of the parcel must follow town zoning regulations. The Board continue to discuss how to deal with buffering. Ms. LaBranche reiterated that it should be a condition on the site plan and recorded.

Ms. LaBranche stated that buffer or buffering was not included in Article 3, the definition section. The Board should refer to an existing definition or add the definition to Article 3. There are buffer requirements in 600:11 which refers to multi-family housing, but do not include this type of development.

Ms. LaBranche will include all her comments in an email.

Chair Killam asked if there were more discussion. Alternate Wainwright asked if he could speak to Ms. LaBranche and they agreed to talk next week.

Chair Killam adjourned the November 18, 2020 meeting of the Atkinson Planning Board at 8:55 pm.