

**ATKINSON PLANNING BOARD MEETING  
MINUTES  
WEDNESDAY, December 2, 2020**

**Members Present:**

Sue Killam, Chair  
Mike Turell, Vice Chair  
Barbara Brown  
Paul DiMaggio  
John Feuer  
Ted Stewart  
Paul Wainwright, Alternate

**Other's Present**

Kay Galloway  
Dean Killam  
Mark Fougere, Consultant for Lewis Builders  
Joshua Manning, Lewis Builders  
Christine Lewis Morse, Lewis Builders  
Diane Cestrono  
Karen Steele  
Laura Flieder  
Chris Duerr  
Elizabeth  
Selectman Robert Worden  
Becky Hall  
Catherine Zerba

**Call to Order:**

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. Chair Killam read the Zoom meeting room number and password for the audience. 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](mailto:stationmgr@atkinson-nh.gov). If the public is unable to access the meeting, it will be rescheduled. All votes will be taken by roll call vote.

Chair Killam requested a roll call for attendance. Chair Sue Killam with Dean Killam, Member DiMaggio, alone; Vice Chair Mike Turell, alone; Member Feuer, alone; Member Barbara Brown, alone; Member Stewart, alone; and Alternate Wainwright, were present.

**Minutes:** November 18, 2020: not reviewed

**Correspondence:** not discussed

**7:30 PM: Public Hearing:**

She explained that some suggestions have been submitted by people in attendance and opened the public hearing at 7:37 PM. Article III, Definitions and Article V, Permitted Uses would be amended. A copy of the proposed changes to the zoning ordinances can be found in the Town Plan

She explained the purpose of the hearing was to introduce zoning amendments as follows:

**Article IV: General Provisions, Section 4200 Long Term Care Communities**

The purpose of the proposed amendment will be to provide Zoning for Long Term Care dwelling units and associated services.

*This new zoning will also require amendments to the following existing sections:*

**Article III: Definitions**

**Article V: Section 510, Permitted Uses**

*A full copy of the text of the proposed amendment is available for review at the Town Hall, Code Enforcement Office.*

**Discussion:**

Chair Killam asked the Board members if they had had a chance to review the proposed amendments from Lewis Builders and from Julie LaBranche, Rockingham Planning. All members except Member Stewart had reviewed them.

Chair Killam requested comments from the members of the Atkinson Planning Board.

Member DiMaggio stated that he felt that the comments from Ms. LaBranche were good and many of Lewis Builders' were good. Vice Chair Turell stated that he would prefer that not a lot of specific detail be added as it limits the types of facilities which can be proposed and approved. Member DiMaggio agreed. He stated there were some questions regarding definitions, and some of the definitions may be rephrased. Mr. Manning may have a different perspective and may have seen more of the State definitions. One issue is the proposed changes regarding the definition for custodial care; it may not be wise to try to define all basic needs because they vary greatly from one person to another.

Member Brown stated that some of the definitions proposed by Mr. Manning may be site specific and plan related. Member DiMaggio stated that some of the definitions proposed by Mr. Manning warranted looking at. Especially the definitions for "independent living". Vice Chair Turell stated that the definitions proposed by Mr. Manning referred to a facility rather than services. Member Brown stated that the proposed definitions should be site specific to the overall plan.

Member DiMaggio stated he agreed with most of the proposed changes from Julie LaBranche, Rockingham Planning and suggested the Board review them first. Chair Killam agreed.

Chair Killam started with the proposed change to the title; using “Long Term Care Facility Development” rather than “Long Term Care Community”. Chair Killam stated that she would review most of the changes for the audience. Chair Killam started with the changes made by Ms. LaBranche to Section 4200:1. She informed the audience that most of the changes to this section were grammatical rather than content. First, she reviewed 4200:1a and 4200:1b.

She then read 4200:1c and the proposed changes by Ms. LaBranche to change the wording to provide structural building and site designs and layouts. Member DiMaggio stated he was fine with the suggested changes and asked if the other Board members agreed with the changes to the title to Section 4200. No one objected.

Chair Killam reviewed the proposed changes to Section 4200:2 and the Board agreed with them.

Chair Killam again read 4200:1c and also 4200:1d for the audience. Member DiMaggio stated her change to 4200:1d didn't make sense and suggested using multi-dwelling structures up to 8 units.

Chair Killam then read the proposed changes to Section 4200:3, which refers to Associated Services, for the audience. Ms. LaBranche suggested adding Section 4200:3d, mail service and package delivery facilities. Chair Killam continued reviewing Section 4200:3e, Section 4200:3f, Section 4200:3g, Section 4200:3h, and Section 4200:3i. The Board members agreed with those sections as read. Chair Killam explained that she was reading the changes to inform the audience because this is a public hearing.

Chair Killam read the proposed changes to Section 4200:4, which defines review, by Ms. LaBranche. The Board members agreed to review this section and the changes again in a workshop.

Chair Killam read Section 4200:5, Criteria for Approval. She stated that the objective of the Board in this chapter was not to repeat everything. Member DiMaggio asked to read Section 4200:5a and suggested that the wording be changed to “unless exempted within Section 4200” and take out the word “below”.

Chair Killam agreed and explained that within the Public Hearing format, incidental changes can be made, however, more substantive changes may cause a need for more public hearings.

Chair Killam then read Section 4200:5b which concerns NHDES septic design rules; Section 4200:5c which concerns the distance between structures; Section 4200:5d limiting occupants to Senior persons as 65 or older; and Section 4200:5e which defines parking.

Section 4200:5f concerns site plan review. Ms. LaBranche asked if site review is addressed in Article V, Section 510. Member DiMaggio stated it is addressed but felt that it should be there and also in this section.

Chair Killam read Section 4200:6 which addresses specific site plan requirements. Section 4200:6a. defines parking. Section 4200:6b – buffer standards. Chair Killam read the changes proposed by Ms. LaBranche. Member DiMaggio interjected that Ms. LaBranche stated that they should follow Article 6 Section 600:11 with the following clarifications. Chair Killam read the exceptions.

Ms. LaBranche added that screening should be required by way of vegetation, berms or fencing and could be placed within the 150 foot buffer. The Board discussed this proposed change. She also added that parking and traffic circulation will not enter the buffer. Chair Killam explained that since the Board would like these facilities to be located anywhere in Town, that is why this is so strict. The Board agreed that the type of ownership should not affect the zoning regulations.

Member Stewart remarked that being able to place a facility anywhere in Atkinson is nice, but the size of the buffer doesn't make sense to him. The buffer size makes sense in a residential zone, but not if the facility were in a commercial zone. The Board members discussed the size of the buffers in residential zones as compared to in a commercial zone. Chair Killam stated that this was a good question.

One issue would be the size of the lot with such large buffers. The lot would have to be at least five acres.

Member Stewart stated that the only two areas in Town that could accommodate a structure of this type are the Commercial District and the Sport District, by the country club.

Chair Killam stated that anyone intending to build one of these facilities and make a profit would have enough money to comply with zoning and protect the neighbors.

The Board members discussed whether the 150 foot buffers could be exempted in a commercial industrial zone and enforced in a residential area. Also, if the facilities should be more zone specific. Member DiMaggio suggested a 75 foot buffer in the commercial industrial and the sport zones with 150 foot buffers in residential zones. He also suggested some wording for Section 4200:6b. The Board agreed that this would have to be discussed at a later meeting.

Chair Killam read the definitions for green space in the proposed zoning. The Board member discussed whether the buffer is included in the green space, it is not.

Ms. LaBranche made some suggestions for Section 600:11, concerning new definitions for landscaping buffers. The Board agreed to review her suggestions further.

Chair Killam stated that she would review the proposed changes by Joshua Manning.

She explained that the Board wished to keep definitions short and uncomplicated. She read the definitions written by the Board and the proposed additions and changes by Mr. Manning into the record.

In the first definition, "Assisted Living", they suggested adding more language. Chair Killam stated that theirs was a more technical definition. The Board agreed that the original definition written by the Planning Board was "ok".

The Board members next discussed the changes proposed by Lewis Builders to the second definition, "Congregate Senior Living" which adds more language and references. Vice Chair Turell does not agree that such specific references are necessary. The definitions proposed by the Board are broader to provide flexibility.

One example is the amount of greenery, the Board recommends 20% and Mr. Manning suggesting reducing the amount to 5%. Member Brown suggested 10% is a reasonable number. Member Stewart is concerned that excluding buffers from green areas makes it impossible to build. Chair Killam requested to continue with the definitions.

Mr. Fougere requested to address the comments from Lewis Builders. Chair Killam requested he wait and continued to read through the proposed definitions by the Board.

Chair Killam continued to review the draft definitions and proposed changes for continuing care, dwelling unit, a senior person, a senior household and independent living facilities.

Mr. Fougere had suggested a different definition for independent living facilities and Chair Killam stated that the Board would discuss it later. Next, she reviewed the definition for long term care facilities. Mr. Fougere had recommended changes. Mr. Fougere also questioned why the facilities should be exclusively for seniors. Chair Killam went on to review the proposed definitions for medical rehabilitation. Mr. Fougere asked if this were also an allowed use and if it could be offered to persons other than seniors. Chair Killam read the definition for nursing home and Mr. Fougere asked why it should be exclusively for seniors.

Member DiMaggio remarked that references to elderly persons should be changed to senior persons.

Chair Killam stated that she had finished reviewing the definition section and requested input from Lewis Builders. Mr. Fougere explained that based on the comments, this is a follow-up from a discussion last year. He also explained that he used to be in the assisted living industry and that is why the additional qualifications were added. Everyone has different ideas of the meaning, which is why he made them more specific.

As far as “independent living” he thinks of it as over 55. He thinks that with congregate care, a kitchenette is provided, but meals, recreation and transportation are provided as well as other services. With long term care facilities, nursing home and medical rehabilitation, there are times when a younger person may need these services. Chair Killam stated that she thinks everyone needs medical rehabilitation at one point or another. Vice Chair Turell is concerned that nursing homes be filled up with younger persons. Member Brown stated that there are much better facilities for someone in their twenties to obtain medical rehabilitation. Chair Killam stated that there are residential types and there are services. The age restriction is for who lives in the facility rather than someone who goes there for services. The rehabilitation facilities should be a service for the occupants of the development. Vice Chair Turell is concerned about allowing younger residents who would be permanently rehabilitating.

Chair Killam is concerned that the Board zone for who is going to live in the facilities.

Mr. Fougere stated that congregate care is different from independent living, which he thinks of as “over 55”.

Member DiMaggio requested to return to the proposed changes by Mr. Fougere and asked if he is committed to those definitions. Mr. Fougere stated that keeping the definitions of assisted living and congregate care is fine, but he feels the definition for independent living should be clarified. Chair Killam agreed that the Board would discuss that definition more. Member DiMaggio stated that seniors in independent living should be allowed to use the facilities if they wish. This would include meals, recreation and transportation. Member Stewart stated that his idea was to make the definitions as broad as possible to allow a developer to propose a concept of a facility.

Member Stewart requested to return to the comment regarding long term care facility or nursing home. He stated that there are many ways to become permanently bedridden and whether people under fifty-five could be included. The Board members agreed that that definitions should be discussed further.

Mr. Fougere pointed out that someone in a nursing home would not be adding a child. Member Brown stated again that a fifty-five and older facility may not be the right place for a young person. Member Stewart questioned again if someone should be excluded from a long term care facility based on age, not by need, and asked if some of the beds should be set aside for people other than fifty-five and older. Chair Killam stated that the Board should not consider any changes where the fiscal impact is unknown. If 10% of beds are of school age, it could have tremendous fiscal impact.

Mr. Fougere stated that it was not the intent of Lewis Builders to cause an issue. Member Brown again stated that there are better places for someone with a brain injury than an over fifty-five facility in Atkinson.

Chair Killam stated that this is a start and that the Board needed to be careful of what was getting put in the tax bills.

Mr. Fougere requested to discuss Section 4200:2, dwelling types.

4200:2c – congregate care. He stated that there are expenses associated with staff living in 24/7, kitchen facilities, etc. and limiting the size to 50 units would not be economically viable. A size of 120 to 200 units would be better. The Board members agreed the financial feasibility would partly determine the size of the facility. Member Stewart stated that the zoning and septic loading would automatically limit the size of the facility so having an arbitrary limit would be counter-productive.

In other comments, Section 4200:3 – elders should be senior and also in Section 4200:5. Under 4200:5b, criteria for approval, water and sewer need to be further clarified.

Chair Killam agreed that the Board needed to understand the water and sewer aspect better.

In the next section, parking, Mr. Fougere feels parking definitions should be in the site plan regulations rather than zoning. Chair Killam agreed that the site plan regulations need to be amended to accommodate these specifics. The Board members discussed the number of parking spaces required in independent living units, and if it could be 1-2 spaces. Chair Killam stated that it can't be one or two spaces. The higher number should be in the regulations and the developer can opt for fewer.

Member DiMaggio requested the address for Heatherwood in Tewksbury. It has 60 units. The Board continued the discussion of facility size.

Mr. Fougere requested to discuss the green space issue. Mr. Manning pointed out that with a 10 acre parcel, a 150 foot buffer around the property would limit the developable size to 3 acres.

Chair Killam opened the meeting to the public and recognized Kay Galloway. Ms. Galloway stated that she has information from Riverwoods at Durham, and she would be happy to share it, and suggested that the Board look at regulations from other Towns like Exeter and Durham.

Chair Killam stated that the Board did look at other Towns, specifically Exeter. She explained that the Board is attempting any portion of this type of living so someone can build any or all portions of these types of facilities. She thanked Ms. Galloway for the information.

Ms. Steele asked what the overall maximum amount of people living at the proposed facility at Atkinson Country Club.

Chair Killam replied that it was not part of the discussion at this meeting. The Board has never had future plans for a long term care facility at the country club in front of it.

She explained that the maximum number is based on current zoning. The size would be about 4 units per acre or around 1400 units. Chair Killam explained that it is all defined in NH DES septic calculations. Member Stewart explained that the Board could not answer a question about a site without a site plan.

Ms. Steele asked if a substation for a fire truck, police car and ambulance at the country club would be needed with the increased occupancy. And if increased services would increase taxes.

Chair Killam stated that the audience was trying to talk about the country club and the Board is trying to talk about people living in a community and how to accommodate this need. Member Brown stated that the zoning needs to be across the board for the whole town. Ms. Steele agreed and stated that the issue is increased services. Member DiMaggio agreed that additional emergency services are an issue that needs to be addressed. Member Stewart pointed out that the development would provide millions of dollars in tax revenue to the town. Also, any discussion of this type should wait for a site plan. Member DiMaggio stated that there should be actuarial tables for this but agreed that tax income should also be considered. Member Brown asked if there could be a fee for emergency services.

Alternate Wainwright asked if there were any upfront, one time infrastructure additions necessary, and if there should be an impact evaluation. Chair Killam stated that the Board is not allowed to consider these issues without a site plan. Mr. Fougere agreed that there would be impacts, but the facility should generate more taxes than the costs would be. Member DiMaggio stated that an impact fee study should be performed before the impact fees are put in. Chair Killam explained that it can't be done in zoning and impacts are calculated at time of application of a site plan. It is primarily for infrastructure pertaining to that specific project.

Ms. Lewis-Morse requested to speak, commended the Board, and stated that the issue to her is being able to take care of the elderly. The Board thanked her for the comments from Lewis Builders.

Chair Killam stated that the proposed regulations were developed completely by the Atkinson Planning Board. She stated that the Board would like to get the regulations on the ballot in March.

Chair Killam asked if anyone else would like to speak. Member DiMaggio asked if the Board could continue the discussion after the public hearing.

Chair Killam asked for a motion to close the public hearing and then requested a motion to continue the public hearing.

**Vice Chair Turell made a motion to continue the public hearing to December 16, 2020. Member Brown seconded the motion.**



**Roll Call Vote: Chair Sue Killam, yes; Member DiMaggio, yes; Vice Chair Mike Turell, yes; Member Feuer, yes; Member Barbara Brown, yes; and Member Stewart, yes.**

Discussion: Sue Coppeta informed the Board that there are two new applications and one continued application on the agenda for the December 16, 2020. Chair Killam stated that the Board will continue the hearing to the December 16, 2020 meeting but may have to continue the application again.

**The motion passes. Vote 6/0/0.**

Chair Killam advised the Board that the Selectmen have sent Mr. Keach a termination notice and posted the position of Town Engineer. Mr. Keach has been invited to apply. Chair Killam explained that he is considered a third party review consultant. She explained the steps involved in a review. He gives the Town an estimate as soon as he gets the plan to review. No work is done until the applicant pays the cost of the estimate. The money goes into an escrow account. He comes to the Board meetings and advises the Board. The applicant pays for everything.

Chair Killam requested comments on Keach Nordstrom Associates. Vice Chair Turell stated that there were two other consultants who were not satisfactory. His comments are on topic. He also has 30 or more years of history. For Planning Board purposes, he is excellent. Member DiMaggio stated he would resign. Member Brown stated that as a real estate professional, she totally agrees with the information that Mr. Keach brings to the Board and she enjoys working with him. Member Stewart stated that he has worked with three other engineers. Mr. Keach is respectful and he values the law. He takes input from the Town and can apply it. He would hate to see it change and going somewhere else would cost the Town a lot more money. Alternate Wainwright stated that one of the complaints about Mr. Keach is that he knows a lot of people and has been around too long. His thought is, if the Town wants someone who doesn't know a lot of people, they would have to hire someone right out of school and he would like to see how that works. Member Feuer stated that he enjoys working with Mr. Keach, he goes by how the law is written. Chair Killam stated that she trusts him to give the proper advice and information. He has the specific knowledge for each town he works with. Mr. Manning concurs with the comments of the Planning Board members.

**New/Old Business:**

**Ongoing Discussions: Definitions, Permitted Uses, and other required zoning updates regarding Assisted Living Facilities, Congregate Care Facilities and Nursing/Skilled Nursing Care Facilities**

Member DiMaggio reviewed some changes:

First in 4200:2b, the word dwelling structures be added after multi dwelling structures.

Next, under 4200:5a, criteria for approval, cross out the yellow marks in Ms. LaBranches' draft and replace the word "below" within Section 4200.

Under 4200:5e, he likes Mr. Fougere's suggestion that parking be included.

In 4200:6 – add "for Section 4200" to clarify. As far as two spaces or one spaces are needed, it should be decided by the developer.

Under 4200:5f, Chair Killam stated that Ms. LaBranche felt that it could be handled in an existing footnote in Article V, Section 510. The Board members agreed that this comment could stay in but the footnote should be referenced;

Also, in 4200:6 - change particular to specific;

For 4200:6b – he would agree with Ms. LaBranche's comments; and,

In 4200:c – 100 foot frontage should be reviewed again;

Also, looking at Tewksberry zoning, they allocated 25% open space on the total site. He stated that 10% of a five or ten acre property would be a reasonable figure. Also, the paths around the place could be considered part of the green space. Vice Chair Turell agreed.

Regarding the buffer, it would be 219,000 square feet with 200,000 square feet in the buffer zone, leaving 19,000 square feet for the building. He is not sure if 150 foot buffer is necessary. He feels 75 feet is might be more reasonable except where it abuts a residential district. The only time a buffer is an issue is between two different zones, such as commercial and industrial.

Member Stewart asked if the buffer could be included as part of greenspace. Chair Killam informed him that greenspace and buffer were different. The buffer is what protects one type of use in a neighborhood from another. The Board members agreed that the buffer size should be discussed further. Member DiMaggio remarked that the buffer under Section 600 is 100 feet for multi-units and 50 feet for single units. Chair Killam stated that the SCR zoning also has to be addressed. One issue is that it allows commercial use.

Member DiMaggio reviewed building height, and stated that 35 feet is a good height in the residential zone. 55 feet or other heights might be allowable in other zones. Chair Killam stated that she would like input by the Fire Department. The Fire Department just got a 55 foot ladder truck, but height could still be an issue with only one truck. Another issue is there are no hydrants in the commercial zone. The Board agreed to stay with 35 feet for building height.

Member Brown left the meeting.

Member DiMaggio stated that he did not see a need for coverage limits.

The last issue in Ms. LaBranche's comments was emergency services, the Board members have discussed it but agreed this issue needs to be looked at more.

Chair Killam stated that Mr. Fougere was correct, a facility of this type would generate a lot of tax revenue.

Vice Chair Turell stated that more fire personnel are already being added. The Fire Department would be impacted more than other emergency services. Ambulance services are paid for by insurance. Member DiMaggio stated he would do a study on cost of additional services compared to tax revenue.

Chair Killam stated she would like to point out that Mr. Fougere added city water and sewer to 4200:5b. She pointed out that it is not there by accident. When a facility is serviced by public water and sewer there is a new set of DES requirements. The company who wrote these suggestions owns a water company and a sewer company. Member DiMaggio stated he would look into it.

Chair Killam stated that the goal of the Planning Board was to provide a variety of housing options for elderly people. This was the point of Ms. Lewis at the end, too.

Vice Chair Turell pointed out that the SCR section talks about public or community sewer plans and services in Section 620:7. Chair Killam pointed out that there are different rules for public water and sewer. The Board agreed that they should understand it.

Chair Killam informed the Board that a memo was received regarding an ongoing situation at Page Farm. They have not received their alteration of terrain permit. There was a letter from DES stating that the experts they used in their report were not qualified. There have been comments about wildlife studies. There are seven units that are still in question.

**Member Stewart made a motion to adjourn. Vice Chair Turell seconded the motion. There was no vote.**

**The December 2, 2020 meeting of the Atkinson Planning Board was adjourned at 10:30 PM.**