

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, December 30, 2020**

Members Present:

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

Other's Present

Julie LaBranche
Joshua Manning, Lewis Builders
Mark Fougere, Consultant for Lewis Builders

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. 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; Vice Chair Mike Turell, alone; Alternate, Ottow, alone; Alternate Wainwright, alone; Member Stewart, alone; and Member DiMaggio, alone; Member Feuer, alone; were present. Karen Wemmelmann, Recording Clerk, Julie LaBranche, Rockingham Planning, Joshua Manning, Lewis Builders and Mark Fougere, Lewis Builders were also present

Minutes: December 18, 2020: not reviewed

Correspondence: not discussed

7:30 PM: Public Hearing:

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 informed the Board that this did not have to be the last hearing. The last day to post the last possible hearing is January 14, 2021 and the last date for a public hearing is January 25, 2021 which is a Monday. The next Planning Board public hearing is Wednesday, January 20, 2021.

Chair Killam requested Member DiMaggio address the Board regarding his financial impact findings and the difference between DES regulations with and without water.

The Board discussed zoning and site plan rules and how they apply to long term care communities. Section 4200:5b refers to septic rules. This allows approximately four bedrooms per acre. Member DiMaggio suggested referring to 610:3A which is soil-based lot sizing or 620:7A for density and reviewed the regulation. The regulations that the Board has reviewed generally limit the size of a facility to four bedrooms per acre. Vice Chair Turell commented that for this type of facility, it is a combination of calculations depending on what might be in the building plan.

Member DiMaggio asked if NHDES septic design allows 12 bedrooms per acre on a site with public water and sewer. Mr. Manning informed the Board that NHDES septic rules do not apply to sites with public sewer. They are written for onsite septic systems with a leach field draining to the ground. There may be some application if there is an onsite septic system with offsite water. If there is a well on site, the land where the well is located must be taken out of the calculations. With onsite water, the entire land area can be used in the calculations. Vice Chair Turell informed the Board that there is a separate regulation within DES that looks at public water and sewer. In that case, DES will regulate the system and whether the sewage treatment plant and the water system can handle the facility.

Chair Killam requested Mark Fougere speak. He clarified that at one site in the Town of Greenland where municipal water was available, they were allowed 10 bedrooms per acre. It still depends on soils and the site as well as if public water is available. The regulations for septic systems where municipal water is available is ENV-WQ1000 for lot sizing standards.

Member Stewart asked Mr. Fougere how density was calculated with a public sewer system. Mr. Fougere responded that under assisted living facilities, there is no density provision in zoning because they are not housing units; there are no separate kitchens, there is a common dining room, therefore there is no density provision. There is no calculation needed if there is municipal water and sewer. A soil based calculation for density may be needed if there is going to be a septic system and would decide the number of units allowed.

Member Stewart stated that there is a particular site in town where this type of facility may be developed that has offsite sewer and asked how density would be calculated. Mr. Manning responded that if the site has offsite sewer, density is not an issue, if not, then the number of units allowed will depend on a soils-based calculation.

Chair Killam stated that the site the Board knows is being proposed for this type of facility has a sewer system regulated by the State. Mr. Manning affirmed that it would be regulated by both the Public Utilities Commission and the NHDES Wastewater Bureau. The Board would be concerned with the NHDES portion. She asked if the load on a public sewer system is increased, would it have to be reported. Mr. Manning responded that if it were expanded, a design would have to be submitted and approved. He informed the Board that the system is designed primarily for Atkinson Heights and the clubhouse and there are already plans for an expanded sewer system for the site.

Ms. LaBranche informed the Board that the soils-based lot sizing document in 610:3 referenced is no longer used. The Soils Scientists of Northern New England no longer use that reference. Since 2017, it has been called the High Intensity Soil Survey.

Vice Chair Turell asked if what the Board had proposed for 4200:5c is sufficient for this document. Member DiMaggio agreed it is. Ms. LaBranche stated that the references in 4200:5b regarding NH DES septic design rules are not sufficient. There are technical references that are inadequate. ENV-WQ1000 needs to be referenced. It should reference NH DES and the subsurface bureau. Any references should be included directly.

The Board discussed whether ENV-WQ1000 and the other WQ's should be reviewed by the Board. Ms. LaBranche stated that it is not necessary to review the State law, it is only necessary to reference them. They should refer to NH RSA 485A which regulates subsurface permitting and approval directly and not copy something from another section.

Chair Killam stated that instead of NH DES Septic design rules, ENV-WQ1000 should be referenced. Ms. LaBranche stated that the Board should reference Statute RSA 485A and the rules in ENV-WQ1000.

Member Stewart stated that Atkinson is supposed to be a guide on how to develop a site and asked if what Ms. LaBranche suggested the Board reference would give a developer enough information.

Ms. LaBranche stated that the regulation would be Statute 485-A:38 which refers to the subsurface bureau and regulates subsurface permitting and approval.

The Board discussed if both RSA 485-A:38 and ENV WQ1000 should be referenced and agreed to reference RSA-485-A.

Member DiMaggio stated that the Board should reference RSA 485-A. Chair Killam agreed and stated the Board could continue at the final public hearing on January 20th. Ms. LaBranche stated that any wording changes had to be final.

Member DiMaggio made a motion to change the wording in 4200:5b to state:

“The number of senior person bedrooms shall be based on the number of bedrooms allowed under RSA 485-A”, deleting references to NHDES septic design rules. Vice Chair Turell seconded the motion.

Discussion: Alternate Ottow asked if there were a limit on density if there were both offsite septic and water. The Board responded no.

Chair Killam requested a roll call vote and requested one alternate to abstain. Alternate Wainwright agreed to abstain from further voting at this meeting.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes; and Member DiMaggio, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

Chair Killam requested to review the proposed changes starting at the beginning of 4200.

4200:1: no changes

4200:2a-e: Ms. LaBranche offered some amendments and revisions in November and some were accepted. One issue in Section 4200 is long term care developments, she had suggested long term care facility development in the title.

Member DiMaggio made a motion to change the title to Section 4200 from “Long Term Care Developments” to “Long Term Care Facility Developments” Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes; and Member DiMaggio, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:2b: Ms. LaBranche suggested that the wording “multi dwelling structures” should be changed to “multi dwelling unit structures”. This would conform to the wording in 4200:2a, “single dwelling unit structures”.

The Board agreed to change the wording in Section 4200:2b to read: multi dwelling unit structures...”.

Vice Chair Turell made a motion to change the wording 4200:2b to read “multi dwelling unit structures up to 8 dwelling units per structure”. Alternate Ottow seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member Stewart, yes; Member Feuer, yes; Member DiMaggio, yes and Alternate Ottow, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:3: The Board agreed to change the wording from “Associated Services allowed under Section 4200 may consist of any of the following (specifically for residents and workers at these facilities):” to “Associated Services allowed under Section 4200 may consist of any of the following (specifically for residents, workers and guests at these facilities)”.

Chair Killam made a motion to change the wording in 4200:3 to “Associated Services allowed under Section 4200:3 may consist of any of the following (specifically for residents, guests and workers at these facilities):...”. Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Member DiMaggio, yes; Vice Chair Turell, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:4 – currently reads: “Developments under this chapter shall be reviewed by the Atkinson Planning Board as Commercial uses under the Site Plan regulations. They can be allowed on any suitable parcel situated in any zone.”

The consultant, Mark Fougere offered an amendment via email. He proposed striking the word developments, adding the proposed wording.

Long term care communities, proposed under this chapter, although they are principal residential uses, shall be reviewed by the Atkinson Planning Board under the site plan approval procedures. They can be allowed on any suitable parcel. He would propose striking the words “as commercial uses”.

Vice Chair Turell suggested “Long term care developments, proposed under this chapter although they are principal residential uses, shall be reviewed by the Atkinson Planning Board under the site plan approval procedures.” This changes what the Board had written as commercial uses.

Member DiMaggio stated that he would like to hear from Ms. LaBranche.

Ms. LaBranche stated that under 4200:2, the Board allows for single family dwelling unit structures, detached or attached. It is not clear as to what the ownership structure of such a development would be, single family ownership, condominium, owned by a company with people renting. It must be defined if these developments are to be

considered residential or commercial. Site plan regulations under State Statute only apply to multi-family residential developments and to commercial. Any other form of ownership or occupancy besides the above, cannot fall under site plan review regulations. She recommends that even if there are single family residential units, anything under this ordinance be defined as a commercial use. The Board agreed to leave them as commercial uses.

Ms. LaBranche suggested changing the title of 4200:4 to Long Term Care Facility Developments and capitalizing the word Regulations and adding the word review.

Member DiMaggio made a motion to change 4200:4 to state: “Long Term Care Facility Developments under this chapter shall be reviewed by the Atkinson Planning Board as Commercial uses under the Site Plan Review Regulations. They can be allowed on any suitable parcel situated in any zone. Member Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member DiMaggio, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes; and. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:5: no further changes

4200:6: Member DiMaggio asked about parking and suggested changing the wording to “independent living units will be provided with two spaces per unit on single dwelling unit structures and one space per unit in multi-unit structures.

Vice Chair Turell stated that overflow parking is not addressed. Member DiMaggio recommended adding a 10% overflow. Mr. Manning asked if these changes could be added to the site plan regulations. Mr. Fougere recommended that parking be added to site plan review regulations.

Ms. LaBranche agreed with Mr. Fougere and suggested the specifics about parking be removed and the Board post a public hearing in March if the zoning passes. She also stated that independent living can be single family or multifamily so parking could be up to two spaces. Parking for guests should also be considered.

Chair Killam made a motion to change 4200:6a to state “Parking Calculations refer to Site Plan Review Regulations” only, adding the word “Review” and to delete the next four bullets regarding parking in 4200:6a, as far as 4200:6b.

Discussion: The rest of the references need to be added under site plan regulations. There is also employee parking and other types of parking that need to give specific guidelines and refer back to this section.

Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member DiMaggio, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:6b – Screening and Buffering: Member DiMaggio stated that in the third reference: “Screening shall be required by way of vegetation, or berms or fencing that provide a visual barrier and may be placed within the 150 foot buffer”; the reference to a 150 foot buffer was stricken from the regulation. The Board agreed to strike the number from the reference, just stating, “...within the buffer”.

Also, in the reference above, it states “...75 feet from boundaries in Non Residential Zones as well as within the SCR district...; Member DiMaggio suggested stating “from boundaries in Non Residential Zones and the SCR district” striking the words “as well as within”.

Chair Killam made a motion to make the following changes in 4200:6b, bullet 2: strike the words “as well as within” and replace it with the word “and”. In the third bullet, strike “150 foot” stating only “within the buffer”. Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member DiMaggio, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

Discussion: Ms. LaBranche asked why 4200:6b it refers to Article IV Section 600:11, Screening and Buffering because all the definitions are being changed and if the definition should be changed to landscape buffer.

She suggested stating that the Landscape Buffer should be defined as in Zoning Ordinance Article IV Section 600:11 and the following requirements shall apply”, and number the requirements.

Chair Killam changed her motion to state:

“Landscape buffer as defined in Zoning Ordinance Article IV Section 600:11 and the following requirements shall apply:

Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member DiMaggio, abstain; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes. Vote:5/1/0. The motion carries and the document will be amended accordingly.

4200:6c: The word “review” needs to be added to state “Site Plan Review Regulations”.

Ms. LaBranche asked if greenspace is included the landscape buffer. She suggested the wording, "Greenspace within the developed areas, excluding the landscape buffer shall be a minimum of 10% of the developed area."

Chair Killam made a motion to change 4200:6c to state "Green space within the developed areas, excluding the landscape buffers, will be a minimum of 10% of the developed area. Green space may consist of paths and landscaped court yards. Tree strips will be placed along interior roadways, and within parking areas per our Landscaping regulations in Site Plan Review Regulations. Recreational areas and walking paths will not encroach into the buffer area". Vice Chair Turell seconded the motion.

Discussion: Ms. LaBranche recommended changing the last sentence to state "landscape buffer".

Chair Killam amended her motion to change 4200:6c to state "Green space within the developed areas, excluding the landscape buffers, will be a minimum of 10% of the developed area. Green space may consist of paths and landscaped court yards. Tree strips will be placed along interior roadways, and within parking areas per our Landscaping regulations in Site Plan Review Regulations. Recreational areas and walking paths will not encroach into the landscape buffer area". Vice Chair Turell seconded the motion.

Roll Call Vote: Chair Killam, yes; Vice Chair Turell, yes; Member DiMaggio, yes; Alternate Ottow, yes; Member Stewart, yes; Member Feuer, yes. Vote:6/0/0. The motion carries and the document will be amended accordingly.

4200:6d: no change.

Chair Killam will post the changes tomorrow. She believes the Board has completed the definition section, so they can be reposted and redistributed.

The Board discussed when to hold the next hearing. Ms. LaBranche reminded the Board that no other changes can be made. Chair Killam asked if there were any comments from the public. There were none. Ms. LaBranche suggested January 20, 2021, the regular public hearing.

Vice Chair Turell made a motion to continue the Public Hearing to January 20, 2021 at 7:30 PM.

Discussion: The Board requested to look at the definitions under Article III. Member DiMaggio recommended that the "definition of independent living facilities" could be changed and read the proposed definition.

Mr. Manning had suggested that it is a poor definition for independent living. Member DiMaggio read the definition proposed by Mr. Manning.

Member DiMaggio believes that Independent Living and Assisted Living are mutually exclusive. Vice Chair Turell stated that independent living includes assisted living and congregate care but does not only include those two. Ms. LaBranche stated that independent living is a dwelling unit in a development that may include congregate care, assisted living and other communal facilities. Alternate Ottow agrees that independent living and assisted living are mutually exclusive. Member DiMaggio stated that it should be a continuum of care. trying to say a development . Member Ottow agreed that independent and assisted are contradictory.

Vice Chair Turell made a motion to change the definition for Independent Living Facilities under Article III to read “Independent Living Facility which is a dwelling unit intended for independent living which may include additional services”. Member DiMaggio seconded the motion.

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

The Board discussed the economic impact of Long Term Care Facilities and Member DiMaggio’s report. It was agreed that these facilities would not add families and there would not be a big increase in the demand for services. Chair Killam believes that they would be a net tax gain.

Chair Killam continued the motion of Vice Chair Turell to continue the Public Hearing to January 20, 2021. Member DiMaggio seconded the motion.

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

New/Old Business: none.

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

The December 30, 2020 meeting of the Atkinson Planning Board was adjourned at 9:35 PM.

The next meeting of the Atkinson Planning Board will be January 6, 2021.