

**ATKINSON PLANNING BOARD MEETING  
MINUTES  
WEDNESDAY, MARCH 19, 2014**

**Members Present:**

Sue Killam, Chairperson  
Vice Chairman Paul DiMaggio  
Mike Turell  
John Wolters  
Tim Dziechowski  
Ted Stewart  
Scott Simone, Alternate

**Other's Present**

Tim LaVelle, Lavelle Associates  
Aaron LaChance, Stantec Consulting Services, Inc.  
Henry, Millenium Engineering

**Call to order:**

Chairperson Killam called the regular meeting of the Atkinson Planning Board to order on Wednesday, March 19, 2014 at 7:55 PM.

**Approval of Minutes:**

**January 7, 2014**

There were no corrections.

**Mike Turell made a motion to approve the minutes of the January 7, 2014 meeting of the Atkinson Planning Board as amended. Member Tim Dziechowski seconded the motion. The members of the Atkinson Planning Board voted all in favor with Scott Simon, Alternate, abstaining. Vote: 6/0/1.**

**January 15, 2014**

- Page 2 3rd paragraph down, 4th sentence the and application run together
- Page 3 last line of number 7 John Wolters is spelled wrong

**Member Mike Turell made a motion to accept the minutes of the January 15, 2014 as amended. Alternate Scott Simon seconded the motion. The members of the Atkinson Planning Board voted all in favor with Scott Simon, Alternate, and Member Ted Stewart abstaining. Vote: 6/0/2**

**February 5, 2014**

- how should be who

**Member Mike Turell made a motion to accept the minutes of the February 5, 2014 as amended. Member Tim Dziechowski seconded the motion. The Atkinson Planning Board voted all in favor with Member Ted Stewart abstaining and Alternate Scott Simone abstaining. Vote: 5/0/12**

**February 19, 2014**

There was no quorum for the February 19, 2014 meeting. There is a run-on sentence on page 2, two thirds of the of the way down, the last sentence.

**Member Mike Turell made a motion to accept the minutes of the February 19, 2014 as amended. Member John Wolters seconded the motion. Chairperson Sue Killam, John Wolters and Mike Turell voted in favor with Vice Chairman Paul DiMaggio and Members Ted Stewart and Tim Dziechowski as well as Alternate Scott Simon abstaining. Vote: 3/0/4.**

**March 5, 2014**

Page 2, 2nd paragraph should state Ms. LaBranche suggested functional analysis

**Member Mike Turell made a motion to accept the minutes of the March 5, 2014 as amended. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted all in favor to approve the minutes of the March 5, 2014 meeting as amended with Alternate Scott Simon abstaining. Vote: 6/0/1.**

**Correspondence:**

- Correspondence from Stantec - discussed below
- Rockingham Planning Commission notice that dues are due.
- Town and City magazine

Chairperson Killam informed the Board that Mr. Lavelle wished to discuss some information regarding Industrial Way. Chairperson Killam reminded the Board that there is a question of jurisdiction for the below applications because the applications had been continued for almost 3 months.

Chairperson Killam also had a question from Josh Manning, surveyor for Lewis Builders regarding the 288 unit condominium development alteration of terrain permit. He is requesting to come into the April 2, 2014 workshop to discuss the issue. Mr. LaChance will attend the meeting to provide advice. Mr. John Feuer will also attend to discuss a site application.

**Public Hearings:**

**1) Continued from February 19, 2014: Application for Amendment to Site Plan submitted by Lavelle Associates for Ruby Holdings, LLC (Robert Allen) on property located at 16 Industrial Way, Map 16 Lot 59 in the Commercial/Industrial Zone. (Jurisdiction not established.)**

ABUTTERS: Keith and Michelle Wolters, Atkinson Properties, LLC - PRESENT, Positive Start Realty, Inc., Ruby Holdings, LLC, Telusyuno, LCC and Norris Lemay. Mr. Boady - PRESENT

Ms. Killam submitted a letter from Stantec regarding the site plan drawings and storm water management. Atkinson operates under the 2009 building code, which defines temporary structures as a structure that would be in place for 180 days or less.

Mr. Lavelle of James Lavelle Associates, representing Ruby Holdings, LLC passed out plans and a completed application for the Board to review. The plans have been reviewed by the Town Engineer. The ground is still frozen so no test pits have been done. Mr. Lavelle explained he has taken the existing buildings and drawn a site plan showing what is actually on the site.

Chairperson Killam explained that the plan had been submitted in 2008 but was never recorded. Code enforcement is dealing with the property owner regarding the so-called temporary building with the potential of going to court. The plan that was submitted in 2008 is not a legal document because it was never recorded. Mr. Dziechowski received a call from a realtor asking for an opinion from the Conservation Commission regarding a wetland that had been filled in and if it was an issue.

**Member Mike Turell made a motion to take the Application for an Amendment to a Site Plan submitted by Lavelle Associates for Ruby Holdings, LLC (Robert Allen) on property located at 16 Industrial Way, Map 16 Lot 59 in the Commercial/Industrial Zone under jurisdiction. The recorded site plan is for Beaver Brook Equipment Corporation. D26829 is the number. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted in favor with six members voting and Member John Wolters is abstaining because his son is an abutter. Alternate Scott Simon also abstained. Vote: 6/0/2.**

**Discussion:**

Mr. Aaron LaChance, Stantec Engineering commented that a complete statement of intent is needed. It needs to be more clear that it will be a warehouse building with an office space. Chairperson Sue Killam questioned if the letter of intent dated November 5, 2014 is sufficient. Mr. Lavelle agreed that letter of intent is not sufficient. Mr. Lavelle stated that he believes the setbacks for the so-called temporary building are in compliance. It can no longer be defined or called a temporary building and will be referred to as the second building. Mr. Lavelle will ensure that the parking calculations will meet regulations. A determination has to be made regarding the wetland that was filled in. It is listed as 547b on the

parcel and some bordering areas. The Board discussed how to tell exactly how and when filling the wetland happened. Member Tim Dziechowski informed the Board that he has aerial photography that should show where the wetland was.

Member Mike Turell questioned if the Board has time to approve the site plan considering the issues with the filled in wetland. Chairperson Killam pointed out that it can be continued. Mr. Lavelle stated that his client would like to get the issues straightened out and asked the Board what he needs to do.

Mr. Stewart stated that in his opinion, if the wetlands are restored then parts of the site cannot be used. Mr. Lavelle informed the Board that test pits would have to be dug to verify that there were actually wetlands. Mr. Lavelle explained that he is sure that there were wetland(s) there at what time and he has a soils scientist that can test the area. Mr. Dziechowski asked about an area that looks disturbed. Mr. Lavelle explained that the disturbed area is a storm water management area. The former wetlands were behind the storm water management area.

Chairperson Killam asked if there is a consensus that going back to find out what was there should be the first step, also to ask DES what the next steps should be. Member Tim Dziechowski said that if it is small enough they can get an after the fact permit.

Chairperson Killam stated that the other area that needs discussion is changes to Mr. Boady's property and some drainage issues. Chairperson Killam is concerned with the drainage issues.

Chairperson Killam invited Henry Boyd with Millenium Engineering to come before the Board to discuss the drainage issues on the Boady property. This is the first time that Mr. Boyd has seen the proposed drainage mediation. It seems to him that they are planning to revise the temporary structure. His client is concerned that the wetland was filled by the former owner. Mr. Boady would like to see the issue resolved. Mr. Lavelle has produced a plan that cannot be approved. The filling would be the only thing that could support the parking area. The fill over the property line in the existing condition plan. Plans would show that there is as much as 10 feet of fill has been placed over the existing wetland. Mr. Boyd does not believe that filling that an area with stone would help. He does not see that the current drainage would make it to the current drainage area. Any run off from the Ruby Holdings property would sheet flow onto his client's property. Millenium does not understand how the Board could have approved the original plan with the deviation in the drawing.

The other issue that is substantial is that the plans do not show the hard pipe drainage at the back of the property which drains on to Mr. Boady's property and was never approved and which does not show on any plans. Mr. Dziechowski mentioned that aerial photography is a wonderful way to determine what was done. Millenium stated that this Board must act to rectify the errors in the previous site plans.

Mr. Lavelle requested the Board look on Sheet 2 of the plan at the lower end of the lot there are about 10 contours and that is where the fill is.

Millenium pointed out that the new plan still allows the area to run over unto the abutting property. Also, drainage requirements have changed greatly since 1997.

The hard pipe drainage shows on Mr. Lavelle's existing conditions plan but he does not know if there is other hard piping on other abutting property.

Chairperson Killam stated that there are two issues, the first is water coming across the property and the other is the fill that extends beyond the property line. The Board discussed what can be done. Chairperson Killam informed Mr. Boady that the Board cannot instruct the present owner to clean up anything on other property. He would need Mr. Boady's permission.

Chairperson Killam explained the history from the time the plan was created and the property was sold. There was more than 10 years of not being in compliance and efforts by Code Enforcement to try to get them in compliance. The Town Engineer has changed too. The plan was approved in 1997, 16 years ago. Sometime in the last nine years the contours were filled and the drainage was installed.

Mr. Lavelle interjected that he is requesting to put another plan on record. Vice Chairman Paul DiMaggio said that the site must be changed so that it is in compliance with the original plan and regulations. The illegally installed drainage must be removed. Also something must be done about the wetland that was filled in. Draining water from one property onto an abutting property is illegal.

Member Tim Dziechowski asked if jurisdiction should be revoked to give him time to submit a site plan that is in compliance. Mr. Lavelle said it would not be necessary. Vice Chairman DiMaggio reminded Mr. Lavelle about the fill.

Mr. Boyd, Millenium Engineering stated that Mr. Boady does not have a problem with developing, he has been hurt by illegal drainage. The Board returned to the discussion Loren Dickey was the owner prior to Mr. Allen and prior to that Beaver Brook, Ron Howe was the property owner.

Chairperson Killam requested a motion.

**Member Mike Turell made a motion to continue the hearing regarding the Application for Amendment to Site Plan submitted by Lavelle Associates for Ruby Holdings, LLC (Robert Allen) on property located at 16 Industrial Way, Map 16 Lot 59 in the Commercial/Industrial Zone to the April 16, 2014 regular meeting of the Planning Board. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted all in favor with Alternate Scott Simon Abstaining. Vote: 6/0/1.**

**2) Continued from February 19, 2014: Application for Amendment to Site Plan submitted by Lavelle Associates for Clinton Teague on property located at 6 Industrial Way, Map 16 Lot 53 in the Commercial/Industrial Zone. (Jurisdiction not established)**

Abutters: North End Blvd. Corp., South Cove Realty Trust, Clinton Teague, William Hogue, Rent Due One LLC, John Calimaris, Lavelle Associates. None present.

Chairperson Killam submitted a letter from Stantec Engineering regarding the above application to the Board.

Tim Lavelle, Lavelle Associates representing Clinton Teague came before the Board.

This is another non compliance issue. Mr. Lavelle has prepared plans showing existing conditions. Plan 25815 approved from 1997 shows a loamed and seeded area which is gravel. Also, the owner was crushing gravel and concrete to make Tripac to be used for driveways. Mr. Lavelle is requesting to discuss with the Board how to bring the site into compliance. The letter from Stantec outlines what is needed to bring the site into compliance. Vice Chairman Paul DiMaggio stated that the Board needs to look at the regulations regarding the green area. There is supposed to be a green area to the street. Mr. Lavelle stated that he could add a buffer area to the plan. There is a grassy area in the front and there are trees in the back of the property. The tree line is on the plan. There is existing lawn that is not shown on the plan. The Board discussed the boundary line between abutting properties. The Board agreed that it needs a good statement as to the purpose of the applicant. Another concern is parking.

**Member Mike Turell made a motion to take the Application for Amendment to Site Plan submitted by Lavelle Associates for Clinton Teague on property located at 6 Industrial Way, Map 16 Lot 53 in the Commercial/Industrial Zone under jurisdiction. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted all in favor with Scott Simon abstaining as alternate. Vote: 6/0/1.**

**Member Mike Turell made a motion to continue the hearing regarding the Application for Amendment to Site Plan submitted by Lavelle Associates for Clinton Teague on property located at 6 Industrial Way, Map 16 Lot 53 in the Commercial/Industrial Zone under jurisdiction. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted all in favor with Scott Simon abstaining as alternate. Vote: 6/0/1.**

#### **Workshop:**

Discussion with Tim Lavelle regarding potential use of three vacant lots on Industrial Way previously owned by Positive Start Realty. Mr. Lavelle has discussed moving the right of way by the Conservation Commission which would make the property usable. The other issue is reducing the buffer to 50 feet. The property line is also the zone line. The abutting property is the Marshall property which is undeveloped and will remain undeveloped. The current 150 foot buffer renders the properties useless.

Chairperson Killam informed the applicant that there is a procedural issue. Mr. Lavelle needs to go to the Zoning Board first, then come to the Planning Board regarding a variance for the buffer. Mr. Lavelle informed the Board that A Rod Realty Group, Mr. Fred LaCasse, has purchased the property and would like to develop it. Mr. LaCasse has a buyer who would like to use the properties for a truck maintenance facility. The company is Casella Waste. They would not bring waste back to the facility.

Chairperson Killam stated that there are concerns with the potential use. First is empty container storage, there was a site on Kip Cam Road with empty containers. There was always a question with trash and what is in the trucks. The Planning Board questioned how the potential buyer would control it. Mr. Lavelle explained that it is the company that wants the trucks to be empty when they are at the truck maintenance facility. They are a Fortune 500 company. Chairperson Killam stated that the traffic pattern is another issue. There should not be traffic flow within the buffer. There should also not be a building within the buffer. Mr. Lavelle informed the Board that there will be nothing within the 50 foot buffer, it will be vegetation. Chairperson Killam also mentioned that there are drainage issues. The Board discussed if the site plan would need relief from any abutters.

Chairperson Killam asked if the Board was comfortable with the permitted use chart. It is possible that there could be as many as 60 trucks. The current plan shows 3 rows of 15 trucks. Usage is similar to Busby's. Member John Wolters is concerned about the dump trucks and trash containers, and odor. There is 30 acres of conservation land between the site and the residential area. It is 500 to 750 feet from the corner of the lot to the nearest house. Mr. Lavelle will check into the odor. Mr. Turell is concerned that they are going to wash them there. Mr. Wolters is concerned about rodent control. Drainage calculations will also be an issue due to the great amount of pavement. Mr. Dziechowski remarked that there is a lot of water flow and it will end up discharging into the wetland. The site is currently empty. It was previously used for storage. The dumpsters currently on the property will be removed. Member Tim Dziechowski is not sure what the Town will have to do to relocate the current right of way. Chairperson Killam informed the Board that it can be done by a deed. There is an issue with the landlocked lot; a right of way would be needed.

Chairperson Killam requested a motion to adjourn.

**Member Ted Stewart made a motion to adjourn the March 19, 2014 meeting of the Atkinson Planning Board at 9:30 PM. Member Mike Turell seconded the motion. The Atkinson Planning Board voted all in favor with Alternate Scott Simon abstaining. Vote: 6/0/1.**

**The next Planning Board meeting will be Wednesday April 2, 2014 (workshop).**