

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, APRIL 16, 2014**

Members Present:

Sue Killam, Chairperson
Ted Stewart
Mike Turell
John Wolters
Tim Dziechowski

Other's Present

Tim Lavelle, Lavelle Associates
Mike Leach, Stantec Consulting Services, Inc.
Don Kirsch, Atkinson Code Enforcement
Josh Manning, Lewis Builders
Julie LaBranche, Rockingham Planning
Daniel Stacey

Call to order:

Chairperson Killam called the regular meeting of the Atkinson Planning Board to order on Wednesday, April 16, 2014 at 7:42 PM.

Workshop: Discussion with Josh Manning for Lewis Builders regarding their application to the Department of Environmental Services (DES) for an extension of an Alteration of Terrain permit.

Chairperson Killam requested that Josh Manning come before the Board. The topic is a condominium development at Atkinson Country Club. Chairperson Killam reviewed the background of the discussion. An Alteration of Terrain Permit was renewed once and needs to be renewed again. The Board discussed the site walk on Wednesday, April 9, 2014 together with Mike Leach, Stantec Consulting Services, Inc. The issue is what the Planning Board feels needs DES requires under RSA 485A:17-IId. Chairperson Killam read the applicable portion of RSA 485A:17-IId before the discussion. In essence, the Planning Board of the governing municipality must decide if the site is substantially complete according to RSA 674:39-II. Mr. Dziechowski read aloud RSA 674:39-II, which explains substantial completion.

Mr. Manning informed the Board that most of the issues were covered at the April 4, 2014 meeting of the Planning Board and at the site walk on April 9, 2014.

Chairperson Killam informed the Board that conditions A-G of RSA 485A 17-IId must be met and if the Board agrees, then they will write a letter to DES. Mr. Manning stated that it meets all conditions except G, because the Alteration of Terrain permit was renewed once before. It was agreed that the key phrase is "substantially complete" in regards to a ground disturbance of 100,000 square feet or more. The site in this application is 925,000 square feet.

Chairperson Killam reviewed previous correspondence regarding the project. In 2008, the Highway Department wrote a letter acknowledging completion of three site improvements. One was the Sawyer Avenue intersection super elevation; and the Highway Department acknowledged that there are fewer accidents at the intersection since the improvement. The second is the guard rail installed at the culvert crossing on Salem Road; and the third is the Salem and Providence Hill Road intersection delineation. The road agent did not allow them to remove asphalt; the delineation was accomplished by repainted the yellow lines and narrowing of the fog lines. Chairperson Killam read aloud another letter dated a December 2006 letter from DES regarding an application to disturb approximately 925,000 acres to construct 9 units for a 32 unit condominium development. Mr. Manning explained that several alteration of terrain permits were issued over a five year period for various projects at the golf course.

A February 8, 2007 Notice of Deficiency lists the Town of Salem review and approval of the site plan. Mr. Manning explained that there was an off -site improvements to the intersection of Shannon Road. A blinking yellow light was added. Chairperson Killam read aloud the list of improvements to the site plan that were approved by the Town of Salem and listed in the Notice of Deficiency.

Chairperson Killam asked if Mr. Leach or Ms. LaBranche had any comments. Mr. Leach commented that the first disturbance that the alteration of permit was issued for is substantially complete and most of the area has been stabilized. Mr. Leach again commented that the issue is the definition of substantially complete based on the site plan. No buildings have been completed, but the sewer and drainage as well as alteration of terrain are substantially complete as well as the off site improvements. Ms. LaBranche agrees, if the construction under the permit is substantially done, then it makes sense to extend it. Mr. Dziechowski expressed concern that the major alteration of terrain issue not completed is digging the swale. However, the water is going where it is supposed to go and putting in the swale now could cause issues with erosion by channeling the water flow. Mr. Wolters and Mr. Turell agreed that it meets the definition of substantially complete for what the permit was for. The Board agreed that the project could be considered substantially complete.

Ms. LaBranche asked about a letter from Lewis Builders. Chairperson Killam responded that it is a letter to the planners in Salem regarding traffic impacts to Atkinson Heights and Laurie Rossio's traffic impact study. Chairperson Killam read aloud the letter and what it required. Mr. Manning informed the Board that the requirements in the letter from the Salem Planning Board were met.

Mr. Dziechowski read A-G of RSA 487:17 II and the Board went through each requirement as listed in A-G regarding substantial improvement. There was some discussion on "D" relating to water quality. Mr. Manning informed the Board that there is an onsite log book that is inspected regularly for water quality. Mr. Manning explained in "F", the plans are not submitted but they are available for review. Letter "G" of 674:39-II refers to substantial completion of the site plan and Ms. LaBranche informed the Board that it refers to substantial completion of the entire site plan. Mr. Manning explained that the entire site plan included a large area, and much of it has already been developed. Ms. LaBranche felt that the wording was confusing and does not fully explain the term substantial completion. Mr. Manning stated that the alteration of terrain has been substantially completed although no buildings have been erected. Mr. Turell pointed out that this is a huge site with multiple uses and the RSA does not address such a complex site plan. There have been many improvements site wide. As far as this portion of the project is concerned, the roads and sewers have been put in and the site has been graded. Mr. Dziechowski stated that in terms of the alteration of terrain, he was impressed with the water management and the wetlands.

The Board agreed that they could write a letter to the EPA giving their approval for another five year extension to the alteration of terrain permit. There was no vote.

Approval of Minutes: - deferred to the next meeting

Correspondence:

- A new magazine called "Governing"
- 20th Annual Spring Planning and Zoning Conference is Saturday, May 3, 2014, Mountainview Grand Resort, Whitefield, NH
- Invitation to NH DES annual Drinking Water Source Protection Conference April 30th in Concord at the Graponi Conference Center, the event fee is \$50.00. Ms. Killam said the Town would pay the fee.
- Notice from Haverhill dated April 29, 2014 - a meeting April 29, 2014 regarding an application to allow a used car dealership at 251 Winter Street

New/Old Business:

Chairperson Killam informed the Board that there may be a proposal for a new cell tower. The applicants will need to go to the Zoning Board of Appeals for relief because it will be in an area not zoned for cell towers. Ms. Killam is concerned about regional notification. It could involve a big abutters list. Chris Northrup from the State of New Hampshire responded to an email from Ms. Killam which provides the following guidance. The Town will need to provide notice of the Zoning Board of Appeals hearing pursuant to RSA 12K-7. The RSA states that when a municipality receives an application, it needs to notify surrounding towns if the tower is visible within a 20 mile radius. The RSA does not differentiate between the Zoning Board of Appeals or the Planning Board. The notice must be published in the paper used by the Towns and must include a synopsis of the application and the next public hearing date. First there has to be a Zoning Board of Appeals hearing and then a Planning Board meeting for site plan review. Chairperson Killam called Rockingham Planning and spoke to Glen. He was adamant that regional notification needs to be done for both Zoning Board of Appeals and Planning Board hearings. It was agreed to notify Massachusetts and New Hampshire towns although notice to Massachusetts towns is not required. Mr. Dziechowski asked when the clock starts. The Zoning Board of Appeals hearing does not start the clock. Chairperson Killam stated that RSA 12K explains the process. She remarked that co-locations no longer require site plan review. They are regulated through the building permit process. A new tower or substantial modifications of existing tower require site plan review. Mr. Dziechowski remarked that for the last review, the burden was on the applicant to show that it was technically necessary to have the tower where they want it.

Chairperson Killam remarked that the representative for first 2 hearings was not present.

Public Hearings:

1) Continued from March 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 from March 19, 2014

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

Member Mike Turell made a motion to continue the Application for an Amendment to a Site Plan submitted by Lavelle Associates for Ruby Holdings, LLC (Robert Allen) on property located at 6 Industrial Way, Map 16 Lot 59 in the Commercial/Industrial Zone to May 21, 2014. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted in favor with five members voting. Vote: 5/0/1 with one member absent.

2) Continued from March 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 from March 19, 2014.

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

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 May 21, 2014. Member Ted Stewart seconded the motion. The Atkinson Planning Board voted in favor. Vote: 5/0/1 with one member absent.

3) Application for Site Plan submitted by Daniel Stacey to allow a tree service / lumber harvesting facility on his property located at 26 Hall Farm Road, Map 16 Lot 8 in the Commercial/Industrial Zone.

ABUTTERS: Daniel Stacey, Brenda and Sheryl Malley- present, 2 Industrial Way Realty Trust, Ruby Holdings, LLC, Bernard Campbell, Esquyre, Town of Atkinson, Christopher Danforth, Hans Morch and Robert Duval of TF Moran.

Chairperson Killam explained that when a plan comes in, it is delivered to the engineering firm. They look at it and give an estimate of the cost of reviewing it. The funds for the review have not been received so the engineer has not reviewed the plan. The Board will look at the plan tonight, but the application will have to be continued pending review by the Town engineering firm.

Mr. Stacey came before the Board to explain the proposed plan. His father had Stacey's Tree Service for 35 years. There has been a tree service located at the site for several years. It was brought to his attention that there are paperwork issues with the site last year. He parks his equipment at the site; firewood and logs are stored at the site. The work is done off site at residential and commercial areas. There are three sheds on the property that are used for storage of tools.

Chairperson Killam requested that the Board assess if the application could be taken under jurisdiction and discuss some of the known issues. One issue is that the site is very small. The previous owner went to the Zoning Board of Appeals and the property was determined to be in the commercial industrial zone. After it was deemed in the commercial industrial zone, the previous owner, Mr. Stacey, never returned to the Planning Board. There is an issue with a buffer zone between a commercial industrial site and residential property.

Mr. Stewart sees a great many issues and would rather continue the discussion to the next meeting pending engineer review. One concern is there is only a triangle of buildable land on the site. There are no buildings proposed, there are three sheds on the site, the question is, can they be considered in violation. Ms. Killam requested that the Board quickly review the issues. One, there are drainage structures on the site that have never been engineered or approved. There are wetlands on the abutting property; one is on the northwest on the corner of Conley; there are no wetlands shown on the other side of the stone wall. Mr. Stacey informed the Board that TF Moran looked at the site and said that it was ok. Also, the wall and the conservation land are above Mr. Stacey's lot and water runs off onto his property. Chairperson Killam looks at it as a useless piece of commercial industrial land that cannot be build on, and if Mr. Stacey can find a use for it, that's good.

Mr. Stewart reiterated that he would rather wait for the engineer. Mr. Stacey replied that he has only owned the land for about a year and a half and prior to that it was owned by his parents. Mr. Dziechowski pointed out that there is nothing in zoning prohibiting cordwood processing in CI zone and asked if he could bring in wood, cut it up and store it on site.

Chairperson Killam informed the Board that when Attorney Campbell submitted the plan, it came with waiver applications. There is a detailed statement of intent, proposal, list of activities, number of employees, noise level and waiver applications included in the plan.

The first application for waiver is for waiver of a buffer requirement - 690:1A abutting residential district. Ms. Killam read aloud the waiver request. The buffer requirement is 150 feet. Since the lot is so small, a buffer of that size would prevent any reasonable use of the lot.

Chairperson Killam read aloud the second request for a waiver to Section 810:A and 900:3. There has been prior activity for some time. The wetlands have been identified, there is no expected excavation, there is a previously issued wetlands permit allowing installation of a drainage structure, there is no new or additional impervious surface, it is a natural gravel surface. The second request is for waiver of a soil survey or drainage study.

In 2000 DES approved a permit to fill 675 square feet of forested wetland and install a culvert to upland areas for storage. The culvert in the 2000 DES permit may be the culvert that the Board is concerned about. Mr. Leach informed the Board that the original application may be on file.

In terms of buffer distance, the abutter is the Town. The nearest house is about 200 feet from the property line. Sheryl Malley lives diagonally across the street at 29 Hall Farm Road. The zone line runs right to the street.

Chairperson Killam asked if the Planning Board had enough information to take the application under jurisdiction. Mr. Dziechowski stated that the Board needs to know where the DES permitted culvert is, as well as where other structures are on the lot. A site walk should wait until after the Town engineer reviews the site plan. Mr. Stacey can give Ms. Killam a check to cover the costs of the review. Mr. Leach will conduct a review and the Board will continue the application to the next public meeting of May 21, 2014. A site walk can be scheduled after the next meeting. The Conservation Commission will discuss the issue of waiving the buffer and write a letter to the Planning Board.

Ms. Killam requested that Ms. Malley, the abutter speak. Ms. Malley remarked that there has not been a hearing and the site plan has not been approved and asked if the applicant should be on site doing anything. It is a code enforcement issue. He's been there for many years, but it was never approved. Mr. Kirsch explained that if Town Council approves and if the applicant is getting forward motion to gain compliance, then he doesn't have to desist. Ms. Malley informed the Board that there is a lot of traffic with the wood chips. Mr. Stacey replied that he tries to keep the hours good, not coming in before 8 and not on Saturdays or Sundays, unless there is storm damage. Ms. Malley informed the Board that someone is using a bobcat on property.

Chairperson Killam read aloud the Statement of Intent which states that the hours of operation for normal work are from 7:00 am to 5:00 pm except emergencies. Chairperson Killam suggested adding any intentions regarding weekends. Mr. Leach had questions about a compost pile. There is a dirt pile on the site. Mr. Stacey informed Ms. Malley that there was a compost pile on site, once it is screened out, it is going off and not coming back. It is very rich.

Julie LaBranche suggested that the Board give Mr. Stacey guidance regarding drainage. Chairperson Killam responded that the Board needs to look at the wetlands permit. Julie LaBranche replied that the site will not require alteration of terrain, and there is no requirement to manage overland drainage. There seems to be some disturbance, if any drainage off the structures or off the loam piles, drainage will need to be addressed. Chairperson Killam replied that the Planning Board does not know yet.

Member Mike Turell made a motion to the continue the Application for a Site Plan submitted by Daniel Stacey to allow a tree service / lumber harvesting facility on his property located at 26 Hall Farm Road, Map 16 Lot 8 in the Commercial/Industrial Zone to May 21, 2014. Member Tim Dziechowski seconded the motion. The Town of Atkinson Planning Board voted all present in favor. Vote: 5/0/1 with one member absent.

Other: None

Chairperson Killam requested a motion to adjourn.

Member Ted Stewart made a motion to adjourn the April 16, 2014 meeting of the Atkinson Planning Board at 9:10 PM. Member Mike Turell seconded the motion. The Atkinson Planning Board voted all present in favor. Vote: 5/0/1 with one member absent.

The next Planning Board meeting will be Wednesday May 7, 2014 (workshop).