

**ATKINSON PLANNING BOARD MEETING
MINUTES
WEDNESDAY, MAY 6, 2015**

Members Present:

Sue Killam, Chair
Mike Turell, Vice Chair
John Wolters
John Feuer, Alternate
Paul DiMaggio
Tim Dziechowski

Other's Present

Josh Manning, Lewis Builders
Robert Levine, Attorney for Lewis Builders

Call to order:

Chairperson Killam called the regular meeting of the Atkinson Planning Board to order on Wednesday, May 6, 2015 at 7:30 pm.

Correspondence:

City of Haverhill

- permission for special permit to build 4 unit dwelling on Auburn Street
- May 19, 2015 meeting - permission for a special permit for Frank Franzone to develop property of 59 residential units on 59 Water Street
- May 26, 2015 meeting to have Bonin Drive accepted as a public way
- May 2, 2015 meeting - application for a special permit to allow a used car dealership at 7-9 East Broadway

Public Hearings: - none

Other Business:

Tim Dziechowski wants to put Conservation files into cabinets at Town Hall. Chair Killam agreed. The Board discussed where the files could be put. Member Dziechowski stated there was about a half to a full drawer of files.

A lot line adjustment was done on 3 lots on Industrial Way owned by A-Rod Real Estate. The Town gave up one right of way in exchange for another one with better access to the Town property. There has been an issue with the exchange because the bank has asserted that the Town does not have clear title to the original right of way. Chair Killam looked back to the creation of Industrial Way in the 1980's. There is no dividing line to the right of way. The minutes from the 1993 Town Meeting, show that Industrial Way was not accepted as a road at that meeting. Robert Woods amended the article to remove Industrial Way, the article passed and there never was another article to accept Industrial Way. The Board discussed whether acceptance of Industrial Way was grandfathered and who owns the original right of way from Industrial Way to the Town Lands. The deed was closed today.

Sawmill Ridge

Chair Killam and Vice Chair Turell stepped off the Board and Paul DiMaggio chaired the discussion.

Josh Manning and Attorney Rob Levine appeared at the meeting to represent Lewis Builders.

The Board discussed the open space and what can be on condominium open space. RSA 674:21A - Development Restrictions is enforceable. RSA 477:45, I gives the definition of a conservation restriction. The Board continued to discuss the condominium act. Attorney Levine stated that anything not in the condominium act is not enforceable. Mr. Dziechowski is concerned that Atkinson open space regulations exceed the restrictions in the condominium act. Attorney Levine replied that quid pro quos are acceptable and if the owners are willing to accept the additional restrictions in the Homeowners documents, then they are enforceable.

Mr. DiMaggio asked about other open space condominium developments. Many of the homes in Cogswell Farms are single family but the townhouses are condominiums.

The Board discussed easements on scenic vistas. There are other scenic vista developments in Atkinson. There are also conservation restrictions on other developments. Wright Farm, Centerview Hollow, and Settlers Ridge are all condominium developments. Settlers Ridge is a good example of a condominium development with open space. The open space around the condominiums at Settlers Ridge has conservation easements.

Attorney Levine explained that at present the developer owns all the land. It is converted as the units are developed and sold. The open space is converted with the unit. Chair Killam asked where the language regarding open space and the number of units that can be developed in the condominium complex can be found. It is on the plan. Attorney Levine stated that it is in the condominium documents. Attorney Levine also informed the Board that after the developer has signed off, any land that has not been developed is converted to open space. The condominium development has to be completed within the time limits allowed. If not all units are developed, then the land reverts to open space. This development has an initial five year time limit for completion with an optional additional five years if everyone agrees.

Attorney Levine stated that the description of the buildings is very specific, it states that there will be 46 buildings with 100 units. The condominium declaration states the same thing.

Mr. Dziechowski requested to return to a discussion of open space. The language in the Atkinson ordinances has been adopted by the developer. Page 5, 2nd paragraph states how open space can be used. Mr. Dziechowski is concerned that a homeowner may install a pool or other recreational use. Attorney Levine explained that the homeowner's association will decide what homeowners can put around or in their units. Nothing can be put outside the units without approval of the Homeowners Association. If the Homeowners Association wishes to install recreational facilities in open space or community areas, it must go to the Planning Board. Attorney Levine explained that the site plan regulations would govern what can be put in the open space and community areas.

The Board also discussed community gardens and sustainable forest in the open space. Member Dziechowski suggested that the developer do a forestry cut in the parcel.

Member DiMaggio requested to discuss his notes. One issue is how often the field should be mowed and if yearly was often enough. Member Wolters believes that annually is not often enough. Member Dziechowski stated that most of the other fields in town get mowed yearly. One concern is wildlife habitat. He used to mow during the summer, but was destroying too much wildlife habitat.

Chair Killam asked the Board what would happen to the house next door. Mr. Manning explained that the house would be torn down and remain a separate plot. It is the Jane Cole house. Mr. DiMaggio asked about the area shown on Plan D and requested that it should stay in its natural state. On Plan B it states that it will be.

Mr. DiMaggio asked about structures and utilities in the open space. Mr. Manning informed the Board that all utilities would be underground. Attorney Levine explained that the regulations have to be enforceable both by the Condominium Board and the Town of Atkinson.

Attorney Levine asked to discuss Article 6, converting basement space into an additional bedroom. He asked if the concern is adding a bedroom beyond the density allowed by the septic and if the homeowner could change the floor plan to add an office or enlarge the living room and put a bedroom in the basement space. Chair Killam stated that the building inspector should have the permission and ability to monitor the number of bedrooms in the units. Mr. Manning explained that the septic plan specifically lists the flow from each unit, which allows 100 gallons per bedroom. He stated that the developer would add a column showing the specific number of bedrooms for each unit. Chair Killam reiterated that the Board does not regulate the number of people in each unit, only gallons of sewage.

Mr. DiMaggio informed the developer that the Board discussed impact fees and decided that the two bedroom and three bedroom units should have different impact fees. The fee for two bedroom units is \$875 and three bedroom units is more. Attorney Levine stated that the school impact fees should go on the plan. The buyer should know of any possible encumbrances at signing.

Mr. Wolters stated again that the plan has inadequate parking. Mr. Manning stated that the developer is working on adding more parking. Mr. Manning stated that it was discussed at the last meeting and additional parking should be on the revised plan before the next public hearing.

Chair DiMaggio asked if there were more questions or developments. Mr. Dziechowski asked about the trail easement. There was no more discussion.

Approval of Minutes:

March 4, 2015

Vice Chair Turell made a motion to accept the minutes of Wednesday, March 4, 2015 as presented. Member John Wolters seconded the motion. 5 members present voted favor with Member Paul DiMaggio abstaining. Vote: 5/1/0.

Other Business continued:

Chair Killam asked the Board if workshops in June, July and August should be cancelled. The Board agreed.

The restoration plan for the 32 acre parcel on Hall Farm Road has been approved. The owner asked if the lot could be graded at the same time. Chair Killam asked the Town Engineer and he advised that any other modifications aside from restoring the wetlands should be done with site plan approval.

Member Paul DiMaggio made a motion to adjourn the May 6, 2015 meeting of the Atkinson Planning Board at 9:00 PM. Member Mike Turell seconded the motion. All regular members of the Atkinson Planning Board present voted in favor. Vote: 5/0/0.

The next Planning Board meeting is Wednesday, May 20, 2015