

Nottingham Planning Board Meeting

DATE: January 12, 2022

Official Minutes

**Call to Order**

Members Present: Chair Dirk Grotenhuis; Vice Chair Eduard Viel; Gary Anderson, SRPC Rep; Ian MacKinnon; John Morin BOS Rep; Charlene Andersen, SRPC Rep; Robert “Buzz” Davies, Alternate

**Members Absent:** Susan Mooney, Secretary

**Alternate Seated and Voting:** Robert “Buzz” Davies, Alternate, for Susan Mooney

**Others:** Kevin Lemieux, Land Use Clerk; Blair Haney, SRPC Planner; Martha Chase, Abutter; Scott Frankiewicz, NHLC; John Chagnon, Ambit Engineering; Roger Bevins, Applicant; Warren Estes, Applicant; Peter Wawrzonek, Resident; Rebecca Smith, Abutter; Douglas Smith, Abutter

**Call to Order**

The meeting was called to order at 7:04PM.

**Roll call**

Roll call was completed.

Mr. Grotenhuis began the meeting by informing the attendees that Owl Ridge Builders requested a continuance of the Design Review to the next meeting.

*Mr. Viel made motion to continue Owl Ridge Builders Design Review until January 26<sup>th</sup>. Mr. MacKinnon seconded the motion. The motion passed unanimously by a vote of 7-0.*

Mr. Grotenhuis notified the attendees that after the Public Hearing cases, the Board will hold the first public hearing for Zoning Amendment changes.

**Case# 21-016-SUB**

*Application from Estes Family Trust, requesting to subdivide a lot into 4 lots with existing frontage. This property is located at Kennard Rd. (Kennard Road is a scenic road), in Nottingham, NH, and is identified as Map 12 Lot 14.*

John Chagnon of Ambit Engineering introduced himself as the representative for the Estes Family Trust. He revisited previous meetings and refreshed the Board with the trajectory of the case. He stated that the Board requested that he discuss the Subdivision plans first with the Conservation Commission for review. Mr. Chagnon attended the Conservation Commission’s meeting on December 13<sup>th</sup>. He stated that the Commission believed the application was acceptable. The Conservation Commission provided a letter, dated 1-4-22, to the Land Use Clerk, Kevin Lemieux, that supported Mr. Chagnon’s statement that the application “will cause

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37 minimum disturbance” on the scenic road. He asked the Board if there were any additional  
38 questions.

39 Mr. Grotenhuis asked Mr. Haney if he had any additional comments. Mr. Haney read part of the  
40 letter sent by the Conservation Commission. He said that he and the Conservation Commission  
41 are satisfied with the proposed Subdivision.

42 Mr. Grotenhuis said that the Conservation Commission appears satisfied and asked the Board  
43 members if they had any additional questions. Mr. MacKinnon inquired about any feedback  
44 from the town’s Road Agent. There were no comments provided by the Road Agent. Mr. Viel  
45 briefly explained the permitting process necessary for a driveway. Mr. Chagnon said he doesn’t  
46 believe there is a plan to develop all lots at this time.

47 Mr. Viel said that he wants to ensure that there is a note that the path leading to the back lot is  
48 not being approved for access. Mr. Chagnon said he could take the gravel drive off the plan.  
49 Mr. MacKinnon requested a more detailed note be added to the Plans that specifically states that  
50 no access is being granted to the back lot, Map 11, Lot 8.

51 *Mr. Anderson made a motion to approve Case # 21-016-SUB with the condition that the gravel*  
52 *driveway be removed from the plan and a note stating that this is NOT APPROVING access to*  
53 *the back lot, Map 11, Lot 8. Mr. MacKinnon seconded the motion. The motion passed*  
54 *unanimously by a vote of 7-0.*

55 Mr. Chagnon read his proposed note to be added. The Board agreed that such a note would be  
56 satisfactory.

57 **Case# 21-017-SUB**

58 *Application from Roger and Linda Bevins requesting to subdivide one lot into three single*  
59 *family parcels. This property is located at 38 Kennard Rd. (Kennard Road is a scenic road), in*  
60 *Nottingham, NH, and is identified as Map 13 Lot 3.*  
61

62 Mr. Grotenhuis indicated that the Bevin’s case, like the previous case, was required to meet with  
63 the Conservation Commission for approval. He added that the Commission provided Mr.  
64 Lemieux with a letter of satisfaction dated 1-11-22 regarding the proposal.

65 Scott Frankiewicz introduced himself as the representative for the Bevins. Roger Bevins  
66 accompanied him at the applicant desk. Mr. Frankiewicz said that they attended the previous  
67 Conservation Commission meeting, and the Commission had no issue with the driveways. Mr.  
68 Frankiewicz said he has not heard any feedback from the road agent. He added that the Board  
69 was supposed to get back regarding the 30000 SqFt contiguous area question after the town  
70 spoke with legal counsel. Mr. Grotenhuis explained that due to the holiday season, the Board  
71 didn’t have a chance to get in touch with legal counsel.

72 Mr. Grotenhuis asked Mr. Haney if he had any additional feedback regarding the application.  
73 Mr. Haney said that he reviewed the letter from the Conservation Commission and there were no

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notable impacts, however, if the existing structure is torn down, the Commission ask that accommodation be made for the adjacent wetlands when rebuilding.

Mr. Grotenhuis stated that the existing house does not meet the current setback and 30000 SqFt area standard. Mr. Viel asked if relief from the Zoning Board is needed for future construction due to the non-conforming placement of the current house. Mr. Bevins asked for clarification regarding the zoning regulations.

Mr. MacKinnon asked that if the intent is to keep the existing house, serviced by the existing well and leach field, is there a need for showing the 30000 SqFt area at the back of the lot. Mr. Grotenhuis added if there was no existing house and the plan was for new construction, the applicant would need to possibly request approval for a wetland crossing. Mr. MacKinnon added that the lots could have been subdivided differently to fit smaller lots, however, the current proposal makes further subdivision of the lots not possible due to wetlands and frontage limitations. Mr. MacKinnon and Mr. Grotenhuis both stated that they liked having bigger lots in town.

Mr. Viel asked about a strip of land at the back of one of the proposed lots. Mr. MacKinnon quoted the Zoning Ordinances where the minimum width for such a strip is 75 feet. Additionally, Mr. Frankiewicz said that the applicant's name on the Site Plan will be changed to reflect the name of the trust.

Mr. Grotenhuis open the floor for public comment. There was no public comment.

***Mr. MacKinnon made motion to approved Case # 21-017-SUB with standard conditions, and the added conditions as follows:***

- A revision to the Site Plan that the rear access strip of land be extended to a minimum width of 75 feet.***
- The correct name be updated on the plans.***

***The motion was seconded by Mr. Anderson. The motion was unanimously approved by a vote of 7-0.***

Mr. Grotenhuis moved on to other business. The Board received an application for ***Case#22-001-LLA Kelly***, which is to be heard on January 26, 2022, however, the application must be accepted as complete within 30 days of receipt. Mr. Grotenhuis asked Mr. Haney and Mr. Lemieux if they reviewed the application for completeness. Mr. Lemieux said that he did review the application and he believes it to be complete.

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108 *Mr. MacKinnon made a motion to accept the application for Case # 22-001-LLA as complete.*  
109 *The motion was seconded by Mr. Anderson. The motion was unanimously approved by a vote*  
110 *of 7-0.*

111 *Mr. Viel made a motion to move Case # 22-001-LLA to the January 26, 2022, meeting. The*  
112 *motion was seconded by Mr. MacKinnon. The motion was unanimously approved by a vote of*  
113 *7-0.*

114 **Public Hearing for Proposed Zoning Ordinance Amendments:**

115 Mr. Grotenhuis opened the public hearing for three proposed zoning amendments: Building  
116 Height Definitions, Steep Slopes and Driveway Setbacks. He added that this public hearing may  
117 be the last regarding the Zoning Amendments; however, the Board can decide if it needs to add a  
118 second hearing. Ms. Andersen pointed out that January 26<sup>th</sup> is the deadline for the final public  
119 hearing for Zoning Amendments. Mr. Grotenhuis said that the Board can send the proposed  
120 amendments to legal for any feedback.

121

122 Mr. Haney provided a presentation on the overhead projector that allowed for on the spot, real  
123 time changes of the Zoning Amendments. He began the presentation by discussing building  
124 height definitions.

125

126 **Building Height Definitions:**

127 Mr. MacKinnon pointed out a spelling error on an image he provided to the Board. He  
128 committed to correcting the error and providing a new, updated image to the Board.

129 Mr. Viel questioned the language in the beginning of the Building Height Amendment. Mr.  
130 Grotenhuis agreed that he did not like writing definitive, absolute statements. He gave the  
131 example of the parapet language and how it could cause confusion. Mr. Davies added that the  
132 Board could be opening opposing views of what the actual building height measurement would  
133 be. He said that we would prefer to leave the amendment as a definition. Mr. Anderson believes  
134 that the Building Inspector would greatly benefit from the clarity of the definition. The Board  
135 decided to leave the language as is.

136 Mr. Grotenhuis opened the floor to Public Comment. Mr. Peter Wawrzonek, a town resident,  
137 said that he preferred to see a definite number. Mr. Grotenhuis explained that there is a building  
138 height number in the Zoning Regulations, however, this amendment is for how to measure that  
139 number.

140

141 **Steep Slopes:**

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Mr. Grotenhuis mentioned that the slope measurement discussion from last meeting was regarding 15% and 25% slopes. He said that the 25% better matches with the language in the current Zoning Ordinances. Mr. MacKinnon added that there is also the 2000 SqFt minimum contiguous area included in the language.

Mr. Wawrzonek asked the Board what happens if there are slopes greater than 25%. Mr. Grotenhuis explained that there are restrictions on what can be done with such slopes that serve to protect them.

Mr. Viel raised a concern that the proposed amendment may be making the Ordinances less restrictive. He asked if the Amendment may be contradictory to other ordinances. Mr. Grotenhuis said he didn't believe it was contradictory. Mr. MacKinnon added that the 25% language may trigger more inquiries from residents on what can be done on a slope with 25%. He suggested including a statement that the slopes cannot be counted for buildable area measurement.

Mr. Grotenhuis asked the Board why these concerns regarding steep slopes are coming up now since the Board has put so much time into the amendment to date. Mr. MacKinnon said that he sees value in clarifying the language as many towns have robust language around overlay districts including steep slopes. Ms. Anderson proclaimed that she remembers the steep slopes discussion and its difficulties from years' past meetings.

Mr. MacKinnon asked if all subdivisions, not just major ones, should be required to come forward with slopes of 25% or greater due to the severity of the slope. He said the Board could then determine if there is an adverse effect.

Mr. Grotenhuis asked if the Board should pull the Steep Slopes Amendment as there seems to be many questions regarding the proposal. Mr. Viel added that it is important to address steep slopes, however, it's also important to get it right. Mr. MacKinnon said that he is ok with tabling the Amendment until next year, however, he believes it should be a top priority in next year's amendments. Mr. Grotenhuis asked the Board if anyone felt strongly about setting this amendment aside. No one raised an objection to tabling the Steep Slopes Amendments.

***Ms. Andersen made the motion to table the proposed Steep Slopes Warrant Article. The motion was seconded by Mr. Davies. The motion was approved unanimously by a vote of 7-0.***

**Driveway Setbacks:**

Mr. Haney gave a brief overview of the proposed amendment changes for Driveway Setbacks. Mr. Davies inquired about a setback regulation for common driveways. Mr. Haney explained that the driveway and access Amendment is for non-shared driveways. Mr. MacKinnon backed Mr. Davies' question by saying he understands that using the term "shared" or "common driveway" without a term for an individual driveway may cause confusion. He suggested that adding "shared" within the "common driveway" definition may provide clarity and allow the terms to be understood as interchangeable.

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179 Mr. Viel asked why there is a need to adjust the definition of “common driveway” when it is not  
180 part of the proposed amendment. Mr. Grotenhuis said “shared driveway” is more prevalent in  
181 the town regulations. Mr. MacKinnon made the recommendation to put “also shared driveway”  
182 in the common driveway definition. Mr. Grotenhuis suggested, since shared is used more often,  
183 that the term should be “shared driveway” with “common driveway” in definition.

184 Ms. Andersen inquired about the use of the term “residential” in the Commercial/Industrial Zone  
185 area of the driveway regulations. Mr. Grotenhuis agreed that this oversight would be a good  
186 housekeeping item to clean up. Ms. Andersen suggested changing the term “residential” to  
187 “uses”. Mr. Haney and Mr. Grotenhuis both mentioned that doing such a change would require a  
188 different proposal or amendment. The Board jointly agreed to add this item to next year’s  
189 amendment changes.

190 Mr. Morin brought up the frontage and driveway requirements for back lots as a 10-foot  
191 regulation on each side would often need variance relief from Zoning. Mr. Anderson said that an  
192 exception has been brought up for such in the past. Mr. Morin followed by saying there is  
193 nothing in the regulations that discusses backlot exceptions. Mr. MacKinnon said he believes  
194 something can be added to the driveway setbacks amendment. Mr. Haney suggested adding a  
195 line at the end of the definition that states something like “except for backlots”. Ms. Anderson  
196 suggested just leaving it as is since 20-foot backlot subdivisions aren’t that common. Mr.  
197 Grotenhuis added that he would rather folks utilizing the 10-foot driveway setback instead of  
198 providing options to bypass the rule.

199 Mr. Grotenhuis opened the floor to public comment. There was no public comment.

200 ***Mr. Viel made a motion to move forward with the Zoning Amendments for Building Heights***  
201 ***and Driveway Setbacks for inclusion as 2022 Warrant Articles. The motion was seconded by***  
202 ***Ms. Andersen. The motion was approved unanimously by a vote of 7-0.***

203 Mr. Grotenhuis closed the public hearing for Zoning Amendments.

204 Mr. MacKinnon asked if a decision has been made regarding the 2022 Planning Board Meeting  
205 schedule. Mr. Lemieux explained that the schedule has started to circulate, however, the  
206 schedule does state that the dates are subject to change. He added that the Board was previous  
207 caught up on the Planning Board meeting that is scheduled right after the town elections in  
208 March. Ms. Andersen said that last year, the folks who were elected could not vote until they  
209 were sworn in. Mr. Viel explained the voting timeline and appeal period. Mr. Lemieux asked  
210 for clarity on what happens on the meetings denoted as “No Business”. He continued by  
211 committing to remailing out the most updated schedule.

212 Mr. MacKinnon asked about the Wasson case that has been continued multiple times. Mr.  
213 Lemieux answered by saying that Mr. Wasson knows that he must come in on the February 9,  
214 2022, meeting per the Board’s request. Mr. Grotenhuis added that the Board did request Mr.  
215 Wasson to come in before the Board.

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216 Mr. Grotenhuis read an emailed update from Susan Mooney that states that there will be a Public  
217 Hearing hosted by the Conservation Commission and the Select Board on Monday, January 24<sup>th</sup>  
218 at 7pm to discuss the expenditure of up to \$130,000 from the Conservation Fund for a  
219 conservation easement project. He read a second item from Ms. Mooney that stated the  
220 Conservation Commission and the Trails Committee will be hosting a winter walk along new  
221 trails on the Marston Property on Saturday February 19<sup>th</sup>, from 9am-11am.

222 Mr. Morin informed the Board that the Board of Selectmen has completed their Warrant Articles  
223 for the upcoming election and the Articles will be posted soon. He offered a glimpse into a few  
224 article topics, of which one is regarding roads and the other is an effort to cap conservation  
225 funding. He added that the Board of Selectmen have been discussing masks and the town's right  
226 to have a mask mandate and to enforce such a policy. He continued by indicating a meeting with  
227 all the town board chairpersons regarding masks is forthcoming. The Board discussed wearing  
228 masks and the commitment the Board has to the public to keep everyone safe.

229 Mr. Viel thanked the 300<sup>th</sup> Committee, the Recreation Department, the Fire Department, and the  
230 Police Department for the well-run bonfire community event. He felt it was a welcomed, safe  
231 outdoor event for town residents. He added a thank you to our town road crew for providing safe  
232 conditions during inclement weather.

233 Mr. Anderson talked about CIP and that there is only one meeting left. He highlighted two  
234 items. The first item was the school addition for this coming year. The second item was  
235 regarding a Warrant Article proposed to add a second ambulance to the town fleet. Mr.  
236 Anderson believed that the bonfire was a good turnout.

237

238 Mr. Lemieux reiterated that the 2022 Planning Board schedule is out and asked the Board  
239 members to let him know if any changes are needed. He reminded the Board that the schedule is  
240 posted on the town website, however it is subject to change.

241 Mr. Lemieux notified the Board of the minutes from previous meetings that are up for approval.  
242 The meeting minutes that needed to be approved are November 10<sup>th</sup>, December 8<sup>th</sup>, and  
243 December 22<sup>nd</sup>.

244 ***Mr. Viel made a motion to approve the minutes from November 10, 2021, December 8, 2021,***  
245 ***and December 22, 2021. The motion was seconded by Mr. Anderson. The motion was***  
246 ***approved unanimously by a vote of 7-0.***

247

248 ***Ms. Andersen made a motion to adjourn the hearing. Mr. Mackinnon seconded the motion.***  
249 ***The motion was unanimously approved by a vote of 7-0.***

250 ***The hearing was adjourned at 8:54PM.***

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