

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

Planning Board Members Present: Dirk Grotenhuis, Chair; Eduard Viel, Vice-Chair; Tiler Eaton, BOS Rep; Susan Mooney, Secretary; Gary Anderson, SRPC Rep; Ian MacKinnon; Robert “Buzz” Davies, Alternate; Leanne Gast, Alternate

Others Present: JoAnna Arendarczyk, Land Use Clerk; Stefanie Casella, SRPC Planner;

Surveyors & Attorneys: Christopher Berry, Berry Surveying & Engineering; Frankiewicz, NH Land Consultants; Peter Landry, Landry Surveying; Brett Allard, Attorney

Applicant: Tami Defrancesco; Sarah Evans; Lee Weldy; Linda Fernald; Joe & Dawn Fernald

Abutters: Kelly LaPointe; User Creed007; Arthur Jenks; Kathie Morris; 603-895-5470; Jennifer Menard; Tina Tomas; Fredericks Fernald; Carl Munn; AJ Bachhuber; Some snowmobile dude (AJ Bachhuber); Courtney Daigle; Bridget’s iPhone; Eric; Katelyn’s iPhone; Nicole; Eric

Alternate Seated and Voting: Mr. Davies for Vacant Seat

Call to order: 7: 03pm

The Chair read the emergency order notice posted in the agenda.

Roll call: To publicly account for the members present

A short discussion was had about meeting in person. It was decided that the Board would wait for BOS direction.

(Italics below indicate language from a public hearing notice)

Public Hearing

Case #21-004-SUB- *Application from Owl Ridge Builders, LLC, requesting to Subdivide a lot into two (2) separate lots for two (2) single family homes. The property has frontage on both Stevens Hill Road, a scenic road, and Deerfield Road in Nottingham and is identified as Map 52 Lot 10.*

Application Acceptance-

Ms. Casella summarized her review (file) and recommended the application be accepted as complete.

Motion Made by: Ms. Mooney to accept the application as complete.

Seconded by: Mr. MacKinnon

Discussion: None

Roll Call Vote: 7-0-0 **Motion Passed**

Waivers-

No Waivers were requested

Surveyor, Christopher Berry presented the case on the Fernald’s behalf. He shared an updated plan with circled edits per the staff review. He summarized the quality of the land and the Variance approval from the ZBA (January 19, 2021). He noted that the Fire Chief recommended the homes be sprinkled. The applicant declines to do this as it is not required. Some extensive clearing to improve sight distance per the Public Works Director (PWD) review, is planned as well as cutting the grade down.

As the parcel is on a Scenic Road, Ms. Mooney, representative to the Nottingham Conservation Commission (NCC) requested NCC review the case. The applicant agreed to the NCC review to be held on April 12, 2021. The NCC requested the trees to be removed be flagged.

The Chair added a request to stake and flag the driveway as well.

The driveway location was discussed, the applicant stated that the PWD chose the locations.

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

The Chair requested that both the Subdivision plan and the Topography plan note that the road is a Scenic Road, so it is clear to the new homeowners. Additional note change- change the language from “wetland delineated” to “wetland reviewed but not found”.

The road easement to the Town is not clearly understood a discussion will be had with the Board of Selectmen. The Board requested the language on the plan be edited to state Easement provided rather than “potential easement”.

Mr. Berry also noted that the utilities would be run underground as required, they would have to communicate the plans with Eversource.

Public Comment Opened: 7:40pm

Linda Fernald- owner of the land, stated that the parcel is four (4) miles from the Fire Department so that is the Fire Protection for the new homes. She also added that the area’s electricity is served by NH Co-op.

Public Comment Closed: 7:42pm

The Board determined that a Site Walk by the Board is not needed. Mr. MacKinnon stated that he will do his own site visit.

Ms. Mooney agreed to communicate the NCC review comments to the PB for the April 14, 2021, meeting.

Motion Made by: Mr. Viel continue Case #21-004-SUB to April 14, 2021, at 7:00pm.

Seconded by: Mr. Anderson

Roll Call Vote: 7-0-0 Motion Passed

Mr. Berry noted that he will contact Mr. Demeritt to get on the NCC agenda.

Case #21-005-LLA- Application from Peter D. Landry on behalf of owner Sarah P. Evans, Trustee of The Clifford D. Evans Revocable Trust, requesting a Lot Line Adjustment to adjust the existing common boundary line between Map 58 Lot 6 Sublot A and Lot 6 Sublot 1. These properties are located at 66 & 70 Ledge Farm Road in Nottingham and are identified as Map 58 Lot 6 Sublot A and Lot 6 Sublot 1.

Application Acceptance-

Ms. Casella summarized her review (file) and recommended the application be accepted as complete. She also noted that there are no waivers were requested.

Motion Made by: Mr. Anderson to accept the application as complete.

Seconded by: Ms. Mooney

Discussion: None

Roll Call Vote: 7-0-0 Motion Passed

Surveyor, Peter Landry, represented the applicant. He stated that the purpose of the plan is to exchange vacant, unimproved land to leave 12 acres for Currant Use status.

Mr. Viel noted that this is on a Scenic Road and was not stated as such on the Public Hearing notice as this is just a Lot Line Adjustment. He also noted that other lots on the plan are nonconforming and a shared driveway on the plan serves four (4) lots. The Board determined that the plan before them is not making anything more nonconforming.

Public Comment Opened: 8:02pm- NONE

Public Comment Closed: 8:03pm

Approval-

Motion Made by: Mr. MacKinnon to approve Case #21-005-LLA as presented.

Seconded by: Mr. Viel

Roll Call Vote: 7-0-0 Motion Passed

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

Case Closed: 8:04pm

Continued Case #20-009-SUB (1st 12-9-2020; 2nd 1-27-2021, 3rd 2-10-2021, 3rd 2-24-2021)-

Application from Marilyn & Jeffrey Cole, requesting to subdivide 31.18 acres into six (6) lots, two (2) commercial lots on Rte. 4, one (1) residential lot on Smoke Street and three (3) residential lots on Kennard Road (Kennard Road is a scenic road). The property has frontage on Rte. 4, Smoke Street and Kennard Road in Nottingham, NH and is identified as Tax Map 6 Lot 16.

Ms. Casella summarized her staff review (file)

Surveyor, Scott Frankiewicz, spoke to the changes made:

- Will install sprinklers in the homes
- Trees to be removed are noted as it is a Scenic Road
- The application is under DES review

Mr. Cole has also requested approval to remove hazardous trees on the lot on Smoke Street. The trees are in the no cut zone near wetlands. The proposal is to cut the trees but leave the stumps. The Board agreed that the safety is important.

Conditions of Approval to note: threatened species noted in the deeds and the allowance of the trees on Smoke Street be cut but stumps left.

Mr. Frankiewicz noted that the wildlife brochure information is in the plans. He requested that be accepted in lieu of including the information in the deeds.

The Board agreed that the information in the plans would be sufficient.

Acceptance-

Motion Made by: Mr. Viel to approve Case #20-009-SUB with the following conditions:

- ☒ Plan copies with professional seals & signatures
 - Surveyor
 - Wetlands Scientist
- ☒ Original Mylar with professional seals & signatures
- ☒ Electronic submission per regulations (As-builts as required)
- ☒ All fees paid
- ☒ Monumentation set
- ☒ Allowance to remove ~ half dozen pines as discussed during the meeting (Provide documentation Re: the need to remove said trees)
- ☐ State Permits –
- ☒ Curb-cut
- ☒ Subdivision (Sub Surface/Septic)

Seconded by: Mr. MacKinnon

Roll Call Vote: 7-0-0 Motion Passed

Case Closed: 8:20pm

Continued Case #21-003-SIT- Application from Tami DeFrancesco, Trustee of Kubota Trust, requesting approval of a Watercross event to be held three (3) times a year starting in 2021. The property is located at 214 Raymond Road in Nottingham, NH and is identified as Map 69 Lot(s) 8 & 10.

The Chair noted that the case was accepted as complete at the February 10, 2021, meeting.

Ms. Casella summarized her review report (file)

The case was re-noticed twice- Once to include the abutters for regional impact and then again due to some abutters being noticed with the wrong address, so the case was continued to allow time for that re-noticing.

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

126 The Chair noted that there were several public comment letters received (file).
127 The Rockingham Planning Commission and the SRPC provided comments (file). These
128 comments request a Traffic Plan, Emergency Management Plan. None of the comments led the
129 proposal to be a Major Impact.

130 Mr. Frankiewicz shared the proposed plan on the screen. He showed an amended flood plain
131 map.

132 Last year there were about 1,000 spectators over the three (3) days with about 100 crew
133 members.

134 Ms. Mooney stated that the Chair for the Lamprey River Watershed Association, Sam Demeritt,
135 thinks that this application should be reviewed by the Lamprey River Advisory Committee due
136 to its proximity to protected wetlands.

137 The Chair stated that DES and Fish & Game (F&G) have reviewed the proposal therefore, he
138 does not think the extra review is necessary.

139 Mr. Frankiewicz was asked to confirm if DES and F&G reviewed the additional use proposal not
140 just the gravel excavation use. He added that he is not certain that a wetland review has been
141 done.

142 Mr. MacKinnon inquired:

- 143 ○ Dry camping- define this (“carry in/carry out”)
- 144 ○ Vendor areas- limit number of?
- 145 ○ Alcohol use?
- 146 ○ Any proposed changes in topography proposed for parking/camping?

147 Ms. Francesco stated that the camping is proposed to be on the resident lot and no hook-ups are
148 provided- it is just for the participants to “lay their heads and sleep on”. No campfires will be
149 allowed. Port-a-potties are provided and pumped regularly.

150 A discussion as to if the camping on the residential lot made the use of that lot a commercial use
151 for those events (three times a year). The determination was that the use would be considered a
152 temporary use for those events.

153 It was noted that the gravel pit is a pre-existing nonconforming use for this lot. A discussion
154 ensued regarding the additional use in the Residential/ Agricultural Zone would require a
155 Variance.

156 Event Licensing Policy was recently enacted by the BOS. The applicant will be required to
157 submit an application for the events, this licensing will run parallel to this approval.

158 The applicant’s attorney, Brett Allard, stated that the use can be considered an accessory use. He
159 stated that for an accessory use NH law states it has to be incidental and subordinate to the
160 principal use.

161 Ms. Mooney requested a review by LRAC due to the proximity of the Pawtuckaway River on
162 site.

163 Mr. Frankiewicz also noted a berm along the river which is not connected to the pond but along
164 side of the pond.

165 Mr. MacKinnon expressed concern regarding the request to have LRAC review and whether
166 there is authority to require it.

167 The DES permit is being processed and recommendations for other reviews would come from
168 that report.

169 The biggest concern is the noise impact. Atty. Allard noted that the gravel business makes
170 regular noise during the week that can be just as loud. The Board recognized the truth in that
171 however, the events are proposed during weekend, family times.

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

The Chair noted that some of the other issues noted should be recognized as Code/ Health Officer previews (i.e., vendor licensing, alcohol use etc.)

The chair presented a summary spreadsheet of the public comments received which notes the comments stand being in favor or opposed to the events.

Public Comment Opened: 9:12pm

- Lee Weldy- 110 Nottingham Road in Raymond- Considers the pit a good neighbor. He noted that there is not a noise ordinance and does not feel the event interferes with his quality of life.
- Kathie Morris- 212 Raymond Road- Stated that the event did not stop at 6:00pm due to a storm that interfered with the event during the day. They also continued beyond 6:00pm other times as well. She deems the sound to be sustained between 75-85 decibels which is damaging to hearing. She is also concerned with the water table quality. Concerned that the BOS handled the events from the previous year in an underhanded way.

The Chair made it clear that there is not an ordinance and therefore, the police do not have anything to enforce. The police do not have decibel meters and even if they did, they do not have an ordinance to enforce it.

Mr. Viel stated that we do have an ordinance that does call it out as a pollution that should be addressed. However, there are no standards as to how to address it.

- Grace LaPointe- 212 Raymond Road- Opposed because of the noise
- Jennifer Menard- 166 Raymond Road- Supports the events though she acknowledges the event is a noise issue.

The Chair agreed that the events last year were not handled how they could have been. Moving forward, notifications are being done and therefore, the residents are more informed ahead of time.

- AJ Bachhuber- 116 Lakeview Drive- Recognize that machines are noisy. He encourages recreation though it may be noisy. The attempt to control all noise is unfounded.
- Kathie Morris- added that she purchased a decibel meter due to the volume and researched the volume dangers from sound for humans and wildlife. She noted that she does not have funding to escape during the events three times a year.
- Lee Weldy- quoted from NH RSA 266.59a- Motorcycle noise levels NH allows up to 103 decibels.

Board comments-

Mr. MacKinnon stated that the application was submitted as a Site Plan application so it will be reviewed as such. The Board is limited to operational topics and without a noise ordinance we can not address that issue.

Mr. Viel suggested getting legal opinion to be certain that the Board is addressing the application properly. Additionally, getting DOT comments, DES and the wetland bureau and Fish and Game.

The Board agreed with getting legal opinion. The Chair stated he would initiate communication with Town Counsel regarding the use of the commercial (pre-existing non-conforming) and the accessory use of it.

Mr. MacKinnon asked if the surveyor could get the AOT permit copy and plan revisions for the April, 14, 2021, meeting.

Motion Made by: Mr. MacKinnon to continue Case #21-003-SIT to April 14, 2021, at 7:00pm.

Seconded by: Mr. Davies

Roll Call Vote: 7-0-0 Motion Passed

Nottingham Planning Board

March 24, 2021

Approved July 14, 2021

218

219 **Staff/ Board Members Update**

220 **Gary Anderson- SRPC update-** SRPC worked on the transportation plans with DOT for 2021-
221 2024. Recommend returning the invitation with Raymond to hold a joint meeting.

222 **Tiler Eaton- BOS update-** Topics covered during the recent BOS meeting: 300th Celebration
223 plans; Tax credits; Event Licensing Application; Government Aid money; Listings of Town
224 owned properties

225 **Ed Viel-** will share the webinar slides for the NHMA webinar: “workings of a Planning Board”.
226

227 **Adjournment**

228 **Motion Made by:** Mr. Viel

229 **Seconded by:** Ms. Mooney

230 **Adjourn at:** 10:02pm

231

232 For the Nottingham Planning Board ~ JoAnna Arendarczyk, Land Use Clerk