

Nottingham Planning Board  
September 25, 2019

**Approved:** December 11, 2019

**Board Members Present:** Eduard Viel, Vice-Chair; Tiler Eaton, BOS Rep; Robert “Buzz” Davies, Alternate; Leanne Gast, Alternate

**Board Members Absent:** Dirk Grotenhuis, Chair; Susan Mooney, Secretary; Gary Anderson, SRPC Rep; Joseph Clough, CIP Rep; Teresa Bascom

**Others Present:** Sam Demeritt, Nottingham Conservation Commission (NCC); Bonnie Winona MacKinnon, Zoning Board of Adjustment (ZBA); Stefanie Casella, Strafford Regional Planning Commission (SRPC) Planner; Jennifer Czysz SRPC Planner

**Land Use Clerk absent-** Minutes taken by Ms. Czysz and edited by Mrs. Arendarczyk via recording review.

**Call to order:** 7:02pm

- Mr. Viel explained that annually the Planning Board aims to meet with the Zoning Board and other boards and commissions to review existing land use ordinances and regulations.
- All introduced themselves stating which board/commission they sit on.

**Alternates seated and voting for:**

Ms. Gast for Ms. Mooney

Mr. Davies for Mr. Grotenhuis

**Public Meeting**

**Zoning Ordinance Issues & Proposed Changes-** Discussion with all Land Use Boards/ Committees and Staff

Mr. Viel noted that Ms. Casella and Ms. Czysz from Strafford Regional Planning are serving as staff to the Planning Board. As staff they have been working to document possible zoning changes that have been identified over the years. As a Board, the greatest priority is some general housekeeping to the Zoning Ordinance to improve clarity and clean up consistency and formatting.

The Board has three (3) higher priority zoning amendments and many other items identified they would like to tackle as time permits.

Ms. Casella noted that she has started to conduct research to assist in Zoning Ordinance amendments to Article II.C. Her goal at this meeting is to finalize the list of amendments to be made and receive input from the Zoning Board of Adjustment and Conservation Commission regarding specific changes they see as priorities. The housekeeping changes as identified do not propose changes to permitted uses and land use requirements but will improve the usability of the document. All remaining changes, particularly Article II.C. may change actual provisions and allowances.

Mr. Viel walked attendees through the proposed changes to Article II.C. Residential – Agricultural District. In the first paragraph, the ordinance should define low density residential as a permitted use. The Code Enforcement Officer has recommended reducing the requirement of 200’ frontage. Ms. Winona MacKinnon noted that the ZBA hears concerns that the frontage requirement often increases the

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cost of housing. Ms. Gast asked if we knew why Mr. Sylvia requested a decrease. Ms. Casella said she would have to follow up.

Mr. Viel read the next comment, a request from Mr. Sylvia, to allow a 10' setback for septic noting that is what the state requires although the town can enforce a more stringent setback. Ms. Winona MacKinnon added that the Zoning Board sees and grants many variance requests for this specific item for pre-existing non-conforming lots along the lake. Because roads along the lake are all private roads, all improvements require zoning action because they do not meet the requirement to have frontage on a public road. Often the requested variance proposes to improve conditions on the site and move septic systems further away from the shoreline.

Mr. Viel noted non-conforming lots and new subdivisions are intentionally addressed differently. Ms. Winona MacKinnon elaborated that it's difficult to meet requirements on pre-existing lots. Mr. Viel suggested one solution might be to create a new waterfront zoning district. Ms. Winona MacKinnon responded that we need to look at the most ecologically sound way to address pre-existing or "grandfathered" lots.

Mr. Viel read an email, for the record, from Mr. Bonser, Zoning Board member. (Attached)

Additionally, Ms. Winona MacKinnon noted an email received from Mr. Bassett, Zoning Board alternate. (Attached)

Mr. Viel suggested looking at what other communities have regarding septic setbacks. Mr. Davies suggested reviewing the history of the intent behind the town's requirement of 50' septic setbacks and determine the validity of that today. Ms. Winona MacKinnon recalled that most setbacks were historically 50' in Nottingham (front, side, rear); while this may create more privacy for property owners, it can be excessive or challenging for some lots resulting in variances. She further explained the role of the Zoning Board and how variances are granted.

Mr. Viel noted we don't want to change the zoning ordinance for one single issue that is unique, however, if we are seeing numerous variance requests in a single district for the same provision, then we should look at it further. There was further discussion on the definition of frontage that only acknowledges public roads. Mr. Viel noted that there is often question on road ownership on private roads and sending applicants through the zoning or planning review process helps to resolve any potential issues. Ms. Winona MacKinnon noted that if an applicant meets all variance criteria, then they must grant the variance. She recognized that there is a road issue in town, however, the Zoning Board can't resolve that and is having to grant the variances at added expense to the applicant.

The rate of granting variances on private roads is high, Ms. Gast asked if there are common themes that could be directly incorporated by amendments to the zoning ordinance. Ms. Winona MacKinnon noted that each case is unique. Ms. Winona MacKinnon noted that septic setbacks and permit requests to build or rebuild on grandfathered lots on private roads are the two most frequent variance requests. If a new zoning district were to be created, it should be around the lake to address those non-conforming lots. Mr. Davies asked if those private roads are maintained by the town. Ms. Winona MacKinnon did not know who maintains the roads as that is not within the Zoning Board's purview; the deed gives applicants the

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right to pass and repass on the roads. She noted the Zoning Board has had legal advice that they are not allowed to talk about the road, private or public, beyond assuring public safety.

Ms. Casella suggested one possibility is a special exception provision for development on private roads to ensure public safety. Ms. Winona MacKinnon noted that a special exception is easier to apply for than a variance but would still pose the same cost to the applicant and the need to visit the Zoning Board.

Mr. Viel moved to the next recommended revision, Article II.C.2 suggesting revision for clarity. Conversation shifted to the special exception regarding the path to applying for a special exception versus a variance. Staff should assist potential applicants in understanding how and when to apply for special exceptions and variances.

Summarizing, Mr. Viel noted further discussion is needed on:

- Definition of low density residential
- Amount of frontage length to require
- Clarifying language under Article II.C.2

Mr. Viel walked through the proposed housekeeping amendments, including:

- Consistent formatting and outline structure
- Replacing the term “grandfathered” with the defined term “pre-existing non-conforming”
- Incorporate statute changes
- Add language to clarify when Planning Board review is required

Other changes outlined by Mr. Viel included defining temporary housing. Mr. Eaton noted that Raymond has defined temporary housing. Mr. Viel suggested limiting occupancy to six (6) months per year, not more than one temporary housing unit per lot, and a permit issued through the Select Board Office. The Zoning Board has not seen requests regarding temporary housing; they have seen accessory dwelling units.

Desired additional changes if possible- without making the warrant article too cumbersome:

- Change the reference for determining grade plane
- Accessory Dwelling Unit (ADU) ordinance- clarify what form of attachment is required
  - discussion ensued regarding the difference between modular, manufactured and mobile homes and should ADUs be permitted with manufactured homes
- Review whether impact fees should be applied to attached ADUs if detached are allowed
  - Ms. Winona MacKinnon asked what the net difference would be if it were attached or detached.
  - Mr. Viel was concerned that detached would unintentionally create a multifamily scenario in a single-family district.
  - Ms. Winona MacKinnon noted that the square footage requirements prevents an accessory unit from becoming a primary structure.
  - Mr. Viel remarked that should the current provisions change the Board should add new provisions to ensure the neighborhood character is not impacted.

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Mr. Viel moved to other issues:

- Maximum lot coverage requirements in Nottingham are more restrictive in Nottingham than other communities.
- The updates to the floodplain maps (no changes required at this time)
- Clarifications to junkyard provisions
- Clarifications to definitions of major versus minor home occupations
- The impact fee ordinance five (5) year grandfathering built into the applicability section has expired and should be removed
- Clarify and chart requirements for conforming versus non-conforming lots

Additionally, Mr. Viel noted there are potential new provisions the Board should consider in the future:

- Restrict adult entertainment and marijuana enterprises, however, if a use isn't allowed, then it is not allowed. There may be other legal requirements that conflict or allow these uses. The Board should be poised to be proactive.
- Add fencing provisions
- Revisit the draft steep slopes ordinances, an item for SRPC to research
- Review the draft stream buffer ordinance
- Review the draft minimum disturbance ordinance
- Consider a short-term rental regulation (Airbnb)
  - Conversation continued regarding short term rental operations, taxing and regulation.
- Consider new driveway setback requirement

Email from Mr. Bassett was read and discussed. (attached)

Mr. Viel noted that SRPC staff will assist the Board with staying on track and meet deadlines. Much of what is proposed is intended to make the ordinance more user friendly.

**Board and Staff Updates:**

**Ms. Casella:** Tomorrow is SRPC's quarterly meeting

**Ms. Czysz:** New Hampshire Municipal Association (NHMA) has opened registration to its annual conference. The Office of Strategic Initiatives (OSI) conference is coming up in early October and will be attended by Ms. Casella, Mrs. Bascom and Mrs. Arendarczyk.

**Ms. Winona MacKinnon:** Noted the ZBA has had cases nearly every month compared to prior years.

**Mr. Viel:** No additional cases currently on the agenda for next month. This will allow the Board to work on drafts. Looking forward to updates from the OSI conference attendees at the next meeting.

**Mr. Eaton:** The Selectmen have been working on emergency lanes, Marston Property will hold a ribbon cutting on Saturday morning at 9am for the groundbreaking.

**Mr. Demeritt:** The Trails Committee is working on trails on a few properties to make them more accessible to the public.

**Adjournment**

**Motion Made By:** Mr. Eaton

**Seconded By:** Mr. Davies

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178 **Vote: 4-0-0 Motion Passed**  
179 **Adjourn at: 8:42 PM.**