

Nottingham Planning Board Meeting

DATE: January 11, 2023

Approved March 8, 2023

Call to Order

Members Present: Eduard Viel, Chairman; Ian MacKinnon, Vice Chair; Susan Mooney, Secretary; John Morin, Select Board Ex-Officio Representative; Gary Anderson, SRPC Representative; Charlene Andersen, SRPC Representative; Robert “Buzz” Davies, Alternate.

Members Absent: Sherry Sandler, Member; Sandra Jones, Alternate.

Alternate Seated and Voting: Mr. Davies was seated and voted for Ms. Sandler.

Others Present: Blair Haney, SRPC; Alana Kenney, Land Use Clerk.

Call to Order

The meeting was called to order at 7:00PM.

Roll Call

Roll call was completed.

Public Hearings

First Public Hearing for Zoning Amendments

Mr. Viel stated that he had sent the Board’s proposed verbiage to Town Counsel and that they had received feedback.

Ms. Mooney made a motion that the Board move into a non-public session per RSA 91-A:3 Section II(l). The motion was seconded by Ms. Andersen. The motion was unanimously approved by a roll call vote of 7-0-0.

The Board moved to the Land Use Office. They returned after approximately thirteen minutes.

Ms. Mooney made the motion to close the non-public session. The motion was seconded by Ms. Andersen. The motion was unanimously approved by a roll call vote of 7-0-0.

Ms. Mooney made the motion to seal the minutes of the non-public session that requires a two-thirds majority vote per RSA 91-A:3 Section III. The motion was seconded by Ms. Andersen. The motion was unanimously approved by a roll call vote of 7-0-0.

The Board reviewed the following proposed Zoning Ordinance changes:

1. Impervious Surface - “any modified surface that cannot effectively absorb or infiltrate water. Impervious surfaces include, but are not limited to, roofs and paved areas such as driveways, parking areas, or walkways. Impervious surfaces also include decks, patios,

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and gravel or crushed stone surfaces unless such structures or surfaces have been designed to effectively absorb or infiltrate water.”

Mr. Morin inquired as to why decks and gravel driveways are considered impervious even though water does pass through them. Mr. MacKinnon advised that this definition aligns with what the New Hampshire Department of Environmental Services (NHDES) uses.

Mr. Viel opened the public hearing at 7:28PM. With no public in attendance, he closed it at 7:29PM.

2. Vegetative Buffers – “There should be a twenty-five (25) foot no-disturb vegetative buffer around wetlands as defined by a certified wetland scientist. This vegetative buffer is eligible for a Conditional Use Permit (CUP).” This line item would be added to the existing ordinance regarding vegetative buffers.

Mr. Morin asked that, if someone has a seasonal running stream or brook on their property, that person can’t do anything within twenty-five (25) feet on either side of it. Mr. Viel confirmed that, without a CUP, that person cannot. Mr. MacKinnon noted that the current ordinance addresses a vegetative buffer around vernal pools but not around wetlands. Mr. Viel stated that the goal is to protect the wetland area. Mr. Morin expressed concern about de-valuing properties.

Mr. Viel opened the public hearing at 7:39PM. With no public in attendance at this hearing, he closed it at 7:40PM.

3. Roadway Setback – “all new roads or streets shall be placed a minimum of fifty (50) feet from any property line.”

Mr. Morin asked if the proposed ordinance be updated to reflect “any *pre-existing* property line”. Mr. Viel agreed and he proposed that the verbiage be changed to read “all new roads or street within a subdivision shall be placed a minimum of fifty (50) feet from any property line shared with the lot of the abutting subdivision, except as required for connection with an existing or future road”.

Mr. MacKinnon inquired if the intent is that the fifty feet be taken from the right-of-way or from the edge of the roadway. Mr. Viel reported that he interprets it as being taken from the edge of the right-of-way, like other setbacks ordinances. Mr. MacKinnon suggested changing it from fifty feet to twenty-five feet, so as to limit restrictions.

Mr. MacKinnon asked if the verbiage would be going in the *Open Space Development (OSD)* ordinances, to which Mr. Viel replied that it would not. Mr. MacKinnon advised that they may see this proposed ordinance come into play with *OSD* applications. Mr. Viel advised that the *OSD* does require a hundred-foot landscape buffer around the perimeter.

Mr. Viel suggested adding clarifying language to as to eliminate any confusion in interpretation of the proposed ordinance.

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Ms. Mooney spoke in favor of measuring from the center line of the proposed driveway, and not from the edge of the pavement. She suggested that any disturbance would be twenty (20) feet, at most, from the center line to the abutting property. This would save thirty (30) feet of buffer between the new road and the abutting property. She advised that this thirty (30) feet should be undisturbed.

Mr. MacKinnon suggested modifying the verbiage to read “all new roads or streets within a subdivision shall be located such that a minimum thirty (30) foot wide natural vegetative buffer is maintained from any property line shared with the lot abutting the subdivision except as required for connection with an existing or future road”. Ms. Mooney expressed support of this.

Mr. Viel suggested that the verbiage read “the right-of-way of all new roads or streets within a subdivision shall be located a minimum of [a distance to be determined] from any property line shared with a lot abutting the subdivision except as required for connection with an existing or future road”. Mr. MacKinnon expressed support of this.

Ms. Mooney added an additional detail that “a natural, vegetative buffer from any property line will be provided and/or restored”. Mr. Viel added this to the previously stated proposal so that it read “the right-of-way of all new roads or streets within a subdivision shall maintain a [distance to be determined] no-disturb vegetative buffer from any property line shared with a lot abutting the subdivision”. Ms. Mooney suggested that the vegetative buffer be thirty (30) feet. Discussion followed to make it twenty-five (25) feet. Mr. Viel pointed out that the notion of a vegetative buffer being ‘provided and/or restored’ may imply that a developer could clear-cut an area and then plant new trees in the necessary area. Mr. Viel added to the proposed ordinance so that it read “the right-of-way of all new roads or streets within a subdivision shall maintain a twenty-five (25) foot no-disturb *natural* vegetative buffer from any property line shared with a lot abutting the subdivision”. Mr. MacKinnon expressed support of this new verbiage.

Mr. Viel opened the public hearing at 8:26PM. With no public in attendance at this hearing, he closed it at 8:27PM.

Mr. MacKinnon made the motion that the Board amend the language for the proposed Zoning Ordinance amendment for Road Setback to read as follows: “the right-of-way of all new roads or streets within a subdivision shall maintain a twenty-five (25) foot no-disturb natural vegetative buffer from any property line shared with a lot abutting the subdivision” for the Residential - Agricultural District, and “the right-of-way of all new roads or streets within a subdivision shall maintain a fifty (50) foot no-disturb natural vegetative buffer from any property line shared with a lot abutting the subdivision” for the Commercial/ Industrial Zone. The motion was seconded by Mr. Anderson. The motion was unanimously approved by a vote of 7-0-0.

4. Aquifer Protection

Mr. Viel stated that the Board needs to review the current *Aquifer Protection District* (Article III A) and add/revise some of the language.

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Ms. Andersen noted that the Board would need to come up with definitions that align with changes and recommendations made by the State.

Mr. Haney advised that there had been changes made to RSA's, and that one could now get an exemption to the regulations with a Conditional Use Permit through a Planning Board rather than obtaining a Special Exception through the Zoning Board for relief. Mr. Haney welcomed questions.

Mr. Viel had a question regarding Article III A.4 (b), *Use Regulations, Maximum Lot Coverage*. Mr. Haney read as follows; "Within the *Aquifer Protection District*, no more than ten (10) percent of a single lot, including the portion of any new street abutting the lot, may be rendered impervious for any new or expanded uses...". Mr. Viel asked if this meant that no more than ten (10) percent of the lot can be impervious, or that the total imperviousness of a lot cannot exceed ten (10) percent. Mr. Haney advised that he interpreted it as meaning the latter. Mr. MacKinnon inquired as to whether or not this verbiage meant that the right-of-way abutting the lot would also count towards total imperviousness. He noted that abutting, by definition, would mean that the right-of-way would not be within the lot and therefore would not count toward imperviousness. Mr. Viel suggested deleting "for any new or expanded uses" for clarification. this. Mr. MacKinnon seconded this. He did the calculations and concluded that, for an *Open Space Development (OSD)* with an average lot size of 30,000 square feet, the typical property owner would not have more than a few hundred square feet to use for a driveway, walkway, or patio. Mr. Viel noted that this would only be the case if the property is within the Aquifer Protection District. Mr. MacKinnon suggested that "for any new or expanded uses" be modified to state, "any uses".

Mr. Viel moved to proposed Article III A. 4. (d)(3) regarding *Conditional Uses*; "any activities that involve blasting bedrock". He suggested that a new sentence be created after this phrase.

Mr. Viel then moved to number (5) of the same section, also regarding *Conditional Uses*. He recalled that the Board had discussed leaving this to the Town Administrator with input from the Fire Chief, Police Chief, Building Inspector, and Code Enforcement. Discussion followed about eliminating the citation of those departments and leaving it more open-ended, so that the Town Administrator would discuss with the Fire Chief and 'other departments, as needed'. Ms. Mooney and Mr. MacKinnon expressed support of this.

Mr. Viel moved to Section D, number 1, regarding Permitted Uses. It reads as, "any use permitted in the underlying district of the Zoning Ordinance except as prohibited and/or regulated". Mr. Viel suggested adding "in *Section 4. (Use Regulations)* of this article" to the end of the sentence.

Ms. Andersen recommended that the Board post an explanation of each proposed ordinance change to the Town's website for the public to be able to review. Ms. Andersen offered to draft up something in layman's terms and send it to Ms. Mooney for review.

Mr. Viel summarized the changes discussed by the Board regarding the Aquifer Protection District.

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182
183 *Mr. MacKinnon made a motion that the Board modify the Aquifer Protection District*
184 *language as read by the Chair. The motion was seconded by Mr. Anderson. The motion was*
185 *unanimously approved by a vote of 7-0-0.*

186
187 Mr. Viel opened the public hearing at 8:57PM. With no public in attendance at this hearing, he
188 closed it at 8:57PM.

189
190 *Ms. Andersen made a motion that the Board move the Roadway Setback and the Aquifer*
191 *Protection District warrant articles to the second public hearing on January 25, 2023 at 7pm.*
192 *The motion was seconded by Ms. Mooney. The motion was unanimously approved by a vote of*
193 *7-0-0.*

194
195 *Ms. Andersen made a motion that the Board move the Impervious Surface and the Vegetative*
196 *Buffer warrant articles to the ballot. The motion was seconded by Ms. Mooney. The motion*
197 *was approved by a vote of 6-0-1.*

198
199 **Other**

200
201 In accordance with RSA 36:55, Nottingham has been notified by the Town of Raymond of two
202 applications deemed Developments Of Regional Impact.

203
204 *Raymond Application #22-008: A SITE PLAN application is being submitted by Wayne*
205 *Morrill of Jones & Beach Engineers, Inc. on behalf of ONYX Partners LTD. They are*
206 *proposing to construct a 500,025 square foot industrial distribution warehouse with associated*
207 *loading docks, truck parking and employee vehicle parking. Property is located on Industrial*
208 *Drive and Raymond Tax Map 22 / Lots 44,45,46, & 47 and Raymond Tax Map 28-3/Lot 120-1.*

209
210 Mr. Haney advised that the public hearing for this application will be held on Thursday, January
211 19, 2023. He further advised that he only received the plans for this application today and
212 therefore does not have an in-depth analysis of them yet. Typically, a staff report is not required
213 in this situation.

214
215 Mr. Viel noted that this would be a large structure and traffic may be a concern.

216
217 Mr. Morin stated that this project would likely not have any effect on Nottingham.

218
219 Mr. Viel advised that the Fire Chief had no comment on this application.

220
221 Ms. Mooney expressed concern regarding light pollution created by this project.

222
223 Mr. Viel stated that he would draft a letter of response to the Town of Raymond.

224
225 *Raymond Application #22-009: A SITE PLAN application is being submitted by Greg DiBona*
226 *of Bohler Engineers on behalf of Jewett Construction. They are proposing to construct a*
227 *200,000 square foot industrial warehouse with applicable access, parking, loading,*

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landscaping, lighting, stormwater management, utilities, and erosion mitigation. Property is located on Route 27 and is identified as Raymond Tax Map 28 / Lots 9, 10, & 11.

Mr. Haney stated that the public hearing for this application will be held on Thursday, January 26, 2023. He had only received the plans for this application today and therefore does not have an in-depth analysis to provide to the Board at this time. Typically, however, a staff report is not required in this situation.

Mr. MacKinnon noted that this project would have a much greater traffic impact on Nottingham than the previously discussed case. He also noted that much of the traffic would likely be coming off of Route 101 rather than Route 156, which may not impact the traffic in Nottingham.

Ms. Andersen expressed concern regarding the increase in traffic on Route 27 and how that would impact Nottingham residents turning onto Route 27 from Route 156. She noted that there is no stoplight at that intersection. She also expressed concern with tractor trailers using Nottingham as a shortcut to get from Route 93 to the warehouse. Mr. Morin stated that this route may be slower than taking Route 93 to Route 101 to Raymond. Ms. Andersen recommended that the Board weigh in on this case and the potential traffic impact.

Mr. Viel stated that he would include the concerns regarding this case in the letter to Raymond's Planning Board.

Mylar To Be Signed

Case # 22-016 SUB Bacon (168 Gile Rd.)

Public Comment

None.

Approval of Minutes

There was a brief discussion to table the minutes of the December 14, 2022 meeting until the next meeting on January 25, 2023. They will be reviewed by the Board at that time.

Select Board and Staff / Board Member Updates

Mr. Davies had no update.

Mr. Anderson had no update.

Mr. Morin reported that the Select Board has finalized the Town Budget and that they came in at the 4% needed for the tax cap. He noted that there is a warrant article in progress to appeal the 4% tax cap on the Town and another warrant article in progress to implement a 4% tax cap on the school budget. He advised that the public hearing on the school budget is tomorrow night, January 12. The Select Board is in the second round of the hiring process for the next Town

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274 Administrator. They should be preparing to make an offer to one of the candidates in the next
275 couple of weeks.

276
277 Mr. MacKinnon had no update.

278
279 Mr. Viel reminded the Board that the open period for some town positions is coming up.

280
281 Ms. Mooney said that the Conservation Commission may be hosting a public walk to celebrate
282 the Spring Equinox in March. A town wide volunteer effort to acknowledge Earth Day in April
283 is also being considered.

284
285 Ms. Andersen had no update.

286
287 Mr. Haney said that James Berdeen, longtime SRPC staff member, has taken a new position with
288 the city of Dover. His last day will be coming up.

289
290 **Adjourn**

291
292 *Ms. Mooney made the motion to adjourn. The motion was seconded by Mr. Anderson.*

293
294 The meeting was adjourned at 9:30PM.

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297
298
299
300 Respectfully submitted,
301 Rachel Dallaire, Transcriber