

Nottingham Planning Board Meeting

DATE: January 25, 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; Robert “Buzz” Davies, Alternate.

Members Absent: Charlene Andersen, SRPC Representative; Sherry Sandler, Member; Sandra Jones, Alternate.

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

Others Present: Alana Kenney, Land Use Clerk; Barry Gier, Jones & Beach Engineering; Anthony Comeau, Applicant; Dmitry Teleganov, Abutter; Eric Desilets, Abutter.

Call to Order

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

Roll Call

Roll call was completed.

Public Hearings

Second Public Hearing for Zoning Amendments

Roadway Setbacks

Mr. Viel stated that the Board had sought, and received, feedback from Town Counsel regarding the revised verbiage. One item was whether or not the Board intended for the vegetative buffer setback was meant for the new road along any abutting property boundary. Mr. Viel recalled that the Board had previously discussed this and decided that this is the case. Another feedback item was whether or not the Board wanted to include any verbiage about connections to existing or future roads. Mr. Viel noted that if the Board wanted to make changes to add this verbiage, the Roadway Setbacks Zoning Amendment would need to be postponed until next year, as there would not be enough time to hold a hearing prior to the warrant article being placed on the ballot for this upcoming election. Ms. Mooney noted that the proposed verbiage does not prohibit such connections but does not discuss it. Mr. MacKinnon stated that the Board may need to take it on a case-by-case basis in the future. Mr. Viel reported that he, personally, is content with how the proposed verbiage stands.

Mr. Viel opened the public hearing.

Barry Gier came forward and identified himself as a resident of 88 Garland Road. He reported that he is “in the business”. He noted that this proposed verbiage appears to create a spite strip. He advised that if someone is putting in a new road and needs to maintain twenty-five (25) feet

Nottingham Planning Board Meeting

DATE: January 25, 2023

Approved March 8, 2023

from the right-of-way to the abutting property, the abutting property could not utilize that new road to put in driveways because there would be a strip of land that they don't own. This strip of land is also known as a spite strip. Mr. Morin stated that the intent of this proposed amendment is to prevent people from putting a road on a property line. Mr. MacKinnon suggested that the Board move forward with the proposed verbiage but ask Town Counsel for guidance regarding spite strips.

Mr. Viel closed the public hearing at 7:21PM.

Ms. Mooney made the motion that the Board forward the Roadway Setback proposed amendments (with modifications to be descriptive of twenty-five (25) feet in residential and fifty (50) feet in commercial zones) to the warrant. The motion was seconded by Mr. Anderson. The motion was approved by a vote of 5-1-0.

Aquifer Protection

Mr. Viel recalled that it is best practice to update and clarify some items in the proposed zoning amendment. Mr. Morin noted that by changing some of the language, the Board will bring Nottingham's Aquifer Protection ordinance up to state standards.

Mr. Viel opened the public hearing at 7:24 PM. No member of the public came forward. Mr. Viel closed the public hearing at 7:25 PM.

Mr. Davies inquired as to whether or not a line could be added to the proposed verbiage that indicates that the Board is trying to bring the article up to state standards. Ms. Mooney advised that Ms. Andersen is in the process of writing up some prose regarding explanations for each of the warrant articles that would be posted on the town website for the public to review. Mr. Morin noted that this prose would not be able to be posted on the ballot. Mr. Anderson seconded Mr. Davies' inquiry about adding the intent to the warrant article.

Mr. Anderson made the motion to approve the Aquifer Protection District warrant article as proposed but to allow wording in the ballot language to include the intent to meet state regulations. The motion was seconded by Ms. Mooney. The motion was unanimously approved by a vote of 6-0-0.

Case #22-011-SUB (continued): Application from Jones & Beach Engineering, on behalf of Jim Rosborough, requesting an eleven (11) lot subdivision. The property is located on Mooers Road, in Nottingham, NH, and is identified as Tax Map 72, Lot 13-1. The applicant has filed a Conditional Use Permit.

Mr. MacKinnon recused himself from this case and left the table.

Mr. Morin inquired as to why a Rocky Hill Road subdivision with larger lots was approved while this proposed subdivision has not been approved for larger lots. Mr. Viel reported that, based on his research, it appears as though the *Zoning Ordinances* have changed since the Rocky Hill Road subdivision was approved.

Nottingham Planning Board Meeting

DATE: January 25, 2023

Approved March 8, 2023

Mr. Gier returned to the table representing Jones & Beach Engineers on behalf of the applicant. He noted that, since the last time they were before the Board, the plans were updated to limit the proposed lot sizes to less than 45,000 square feet. This change increased the open space to 36.65 acres; it was previously 34.92 acres. The covenants to the town have been provided. They are still working to define the beach access and the location. The intent is to allow the homeowners to access the dock located at the end of Mooers Road and they are working with the surveyors as well as the attorneys to finalize that location. The applicant intends to retain Southeast Land Trust to assume the monitoring of the open space, and that there is an agreement drafted for them to do so until the Homeowners Association takes over. Work continues with NH Fish and Game and, per their request, are proposing a four (4) foot wide by two (2) foot tall box culvert rather than the original dual two (2) foot round culverts on Mooers Road.

Mr. Viel inquired as to whether or not the feedback provided by Fish and Game is binding. Mr. Gier replied that Fish and Game makes recommendations that are followed up on by the State.

Ms. Mooney inquired about the Homeowners Association documentation and recalled that an earlier draft had discussed not using pesticides, herbicides or commercial fertilizers and only using wood ash and lime. Mr. Gier reported that he would look into this and make sure this is included.

Mr. Viel inquired as to whether or not the NH Fish and Game report regarding a rare species of turtle would go into the plan set. Mr. Gier reported that it would, along with information on what someone should do and whom they should contact if they find one of the rare turtles.

Mr. Viel stated that the Board has sought and received feedback from the Fire Chief regarding the applicant's position regarding a cistern as well as sprinkler systems on the Mooers Road and Jamps Trail lots, respectively. Mr. Viel reported that the Fire Chief indicated that he would like to see a cistern added to Jamps Trail for any more than one (1) house. Mr. Anderson added that this is likely due to the lack of sufficient natural water supply in that area.

Mr. Viel welcomed discussion from the Board. Mr. Anderson stated that a cistern versus no cistern on Jamps Trail is a matter of safety, not only for the proposed homes but also for the existing residents. Ms. Mooney stated that sprinkler systems for two proposed homes on Jamps Trail would seem to be adequate. Mr. Morin agreed with her.

Ms. Mooney made the motion to require Case #22-011-SUB to install sprinkler systems in the two residences along Jamps Trail in lieu of a cistern. The motion was seconded by Mr. Morin. The motion was approved by a vote of 4-1-0.

Mr. Viel advised that the Board had also sought and received feedback from the Road Agent, who feels as though, based on the current conditions of the road, improvements would need to be made to Jamps Trail. The Road Agent also had concerns regarding how recently Jamps Trail had been surveyed and whether it is current. Mr. Gier reported that this subdivision will formalize the location of Jamps Trail, as the applicant plans to give the area west of Jamps

Nottingham Planning Board Meeting

DATE: January 25, 2023

Approved March 8, 2023

Trail to the town as a right-of-way. Mr. Viel noted that the Board cannot accept land on behalf of the town and that the right-of-way would need to go before the Select Board for approval.

Mr. Morin noted that, as for making improvements on Jampsa Trail, the town does not have any standards for existing roads, only for new roads being built.

Mr. Viel opened the public hearing.

Eric Desilets came forward and introduced himself as a resident of 19 South Road. He inquired as to whether or not everything had been settled with the Lamprey River Advisory Committee. Mr. Viel replied that the Board has not received any additional word from the Committee since their first correspondence. Mr. Desilets asked if everything was all set with the Raymond Planning Board. Mr. Viel responded that the Raymond Planning Board had given their input on the proposal but did not have any sort of a formal say in the plans. Mr. Desilets asked if all the water testing was finished. Mr. Viel replied that he would ask the applicant about this matter. Mr. Desilets expressed concern on the effect that adding more cars would have on Mooers Road and Jampsa Trail.

Dmitry Teleganov came forward and introduced himself as a resident of 5 South Road. He asked who would be responsible for damages incurred by this proposed subdivision. Mr. Morin replied that it would be the homeowner's responsibility. Mr. Viel advised that, depending on the situation, legal action may be taken.

Mr. Viel closed the public hearing at 8:11PM.

Mr. Gier returned before the Board. He stated that, as far as the utilities, the project will follow all the state and local regulations regarding the wells. He reported that they did not do a hydrogeological study because the Board had discussed this and had not required one. They did, however, complete a drainage study which is the reason for replacing the culvert under Mooers Road. As to the state of Mooers Road, the applicant worked with the Road Agent to improve that road in the recent past and that they are not proposing any additional improvements to it at this time. He noted that it is a town road.

Mr. Viel invited discussion from the Board.

Mr. Anderson noted that the feedback received from the Road Agent appear to be more general to lake roads as a whole rather than specific to Mooers Road and Jampsa Trail. Mr. Viel noted that it would be helpful to hear what specific improvements should be made. Mr. Viel further noted that the town has the authority to post weight limits on roads during certain seasons, which may affect when this development is built.

Ms. Mooney asked what the timeline for construction of the development would be. Mr. Gier replied that the applicant is not in a hurry. Ms. Mooney noted that the summer or fall may be a better time to start construction. Mr. Gier reported that they still need to obtain a wetland permit from the state, which may limit when they can start construction.

Nottingham Planning Board Meeting

DATE: January 25, 2023

Approved March 8, 2023

Mr. Gier asked that iron pins be allowed to mark the rear boundaries of the lots rather than the requirement that all corners be marked by granite bounds. Discussion followed about the conspicuousness and distinctness of said pins. The use of pins instead of granite bounds requires a waiver from the Board.

Ms. Mooney made the motion to approve the waiver request of Case #22-011-SUB that would relieve the applicant of Article XI Section 8 to allow the rear areas of the boundaries marked with iron pins instead of granite bounds. The motion was seconded by Mr. Anderson. The motion was approved by a vote of 4-1-0.

Ms. Mooney made the motion to approve the application for Case #22-011-SUB with standard conditions of approval as well as report from New Hampshire Fish and Game, application for the wetlands permit with the New Hampshire Department of Environmental Services, state subdivision permits, clarification in the deed for lake access and possible parking area, that Homeowners Association documents be provided to Town Counsel for their review, and that the applicant work with the town Department of Public Works on any necessary improvements for Jamps Trail. Standard town conditions include that all plans are submitted as required with appropriate seals and signatures, mylar submitted with appropriate seals and signatures, all fees paid, and all monuments set and certified. The motion was seconded by Mr. Anderson. Ms. Mooney amended her motion to remove "that the applicant work with the town Department of Public Works on any necessary improvements for Jamps Trail". Mr. Anderson amended his second to include this new motion. The motion was approved by a vote of 4-1-0.

Mr. MacKinnon returned to his seat at the table and rejoined the Board.

Other

Mylar To Be Signed

Mr. Viel reviewed the conditions of approval for Case #22-009-SUB. Discussion followed regarding the signing of the mylar because not all the conditions had been met. It was noted, however, that the applicant cannot continue working on some of the conditions without a signed mylar. Mr. Viel advised that he would request input from Town Counsel as to whether or not the Board could sign the mylar. If Town Counsel gives the go-ahead, Mr. Viel will sign the mylar himself without having to wait until the next meeting.

Public Comment

None.

Approval of Minutes

Mr. Viel provided edits to the December 14th, 2022 meeting minutes.

Nottingham Planning Board Meeting

DATE: January 25, 2023

Approved March 8, 2023

Mr. Anderson made the motion to approve the December 14th, 2022 meeting minutes as amended. The motion was seconded by Ms. Mooney. The motion was unanimously approved by a vote of 6-0-0.

Mr. Viel recommended that the Board table the January 11th, 2023 meeting minutes.

Select Board and Staff / Board Member Updates

Mr. Davies had no update.

Mr. Anderson had no update.

Mr. Morin reported that the Select Board is still in the process of selecting a new Town Administrator, pending background checks and contract negotiations. Budget season is still in full swing and that the Deliberative Session will be on Saturday, February 4th, 2023. He asked that residents think carefully about some of the warrant articles, as the town desperately needs to address some of its infrastructure deficits.

Mr. MacKinnon had no update.

Mr. Viel stated that he sent the two letters to the Raymond Planning Board re: the two Developments of Regional Impact. Additionally, he composed the *Planning Board Report* for the 2022 Nottingham Town Report.

Ms. Mooney had no update.

Adjourn

Mr. MacKinnon made the motion to adjourn. The motion was seconded by Mr. Morin.

The meeting was adjourned at 9:10 PM.

Respectfully submitted,
Rachel Dallaire, Transcriber