

Nottingham Planning Board Meeting

DATE: April 12, 2023

Un-Official Minutes

**Call to Order**

**Members Present:** Eduard Viel, Chairman; Charlene Andersen, SRPC Representative; Teresa Bascom, Member; Robert “Buzz” Davies, Alternate.

**Members Absent:** Ian MacKinnon, Vice Chair; Susan Mooney, Secretary; John Morin, Select Board Ex-Officio Representative; Sherry Sandler, Member; Sandra Jones, Alternate.

**Alternate Seated and Voting:** Mr. Davies was seated and voted for Mr. MacKinnon.

**Others Present:** Blair Haney, SRPC; Alana Kenney, Land Use Clerk; Samuel Demeritt, Nottingham Conservation Commission Chair; Henry H. Boyd, Jr., Land Surveyor; Mark West, Wetland Scientist.

**Call to Order**

The meeting was called to order at 6:30PM.

**No Business (6:30-7:00)**

***Election of Officers***

Mr. Viel thanked Gary Anderson, SRPC Representative, for his years of service not only to the Planning Board but also to other town organizations and committees.

***Mrs. Bascom made the motion to nominate Mr. Viel as Chair of the Planning Board. The motion was seconded by Ms. Andersen. The motion was unanimously approved by a vote of 4-0-0.***

***Ms. Andersen made the motion to nominate Mr. MacKinnon as Vice Chair of the Planning Board. The motion was seconded by Mrs. Bascom. The motion was unanimously approved by a vote of 4-0-0.***

It was noted that Ms. Mooney may want to cede her position as Secretary, as she had previously mentioned to Mr. Viel. Ms. Andersen reported that she would be willing to serve as Secretary if Ms. Mooney wanted to step down.

***Mrs. Bascom made the motion that Ms. Andersen serve as Acting Secretary until a formal vote is made on that role. The motion was seconded by Mr. Davies. The motion was unanimously approved by a vote of 4-0-0.***

Mr. Viel noted that there is an open position for a Nottingham representative on the Strafford Regional Planning Commission. Mrs. Bascom indicated that she may be interested in the position if no one comes forward. Mr. Davies suggested that the Board advertise the open position.

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Mr. Viel suggested that the Board nominate representatives for the Budget Committee and Capital Improvement Program (CIP) Committee at a later date, as those committees are not meeting at this time.

**Review *By-Laws and Rules of Procedure for the Transaction of Business***

Ms. Andersen inquired if the Board should add under “*Duties*” the duty of finding of facts. Mr. Viel suggested adding it to the Application Hearings checklist. Ms. Andersen voiced support of this. Mr. Viel advised that there were a couple of new state laws that went into effect this year that impact the Planning Board as well as the Zoning Board of Adjustment, one of which addresses the enforcement so the respective boards document the “finding of fact”, as this would explain the reason a board voted a certain way.

Mr. Viel stated that another thing worth noting is the State recommendation to not accept applications as complete unless they are fully complete with every piece of supportive information that would assist in processing the application. Mr. Davies inquired as to whether or not this would include an application that is awaiting something from the State. Mr. Viel suggested that this would likely be an exception.

Mr. Viel noted that there were no changes to the *By-Laws* and therefore a motion to accept would not be necessary.

Ms. Andersen asked if new members would need to sign acknowledging that they have read and understood the *By-Laws*. It was decided that this would be done at the next meeting to give new members time to review.

**Public Hearings**

***Case # 23-002 SUB Concrete Products – 100 Smoke Street (Continued): Application from Concrete Products of Londonderry requesting Planning Board Approval of a 3-Lot Residential Subdivision utilizing the existing frontage on Smoke Street. The property is located at 100 Smoke Street in Nottingham, NH and is identified as Tax Map #11, Lot #3.***

Henry H. Boyd, Jr., came forward and introduced himself as representing Millenium Engineering and Mark West, Wetland Scientist, on behalf of the applicant. Mr. Boyd reported that, the last time his team was before the Board, the Board had requested that they reconfigure the lots as they had them. Originally, the plans showed four (4) lots, which was reduced to three (3) lots. The Board had suggested that Lots #1 and #2 be made smaller so that Lot #3 could wrap around them. Mr. Boyd reported that he had discussed this with his client and that the client is amenable to this. Mr. Boyd advised that they were also asked to speak to the Lamprey River Advisory Committee (LRAC), which they have done. He stated that they contacted Mr. West who asked that the plans include a fifty (50) foot natural woodland buffer, a one-hundred fifty (150) foot

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buffer, and two (2) two-hundred fifty (250) foot shoreland setbacks. Mr. Boyd reported that all of these are reflected on the plans.

Mr. West came forward and presented Board members with a response letter from LRAC. He stated that back when this project started, the LRAC was consulted by the Nottingham Conservation Commission (NCC). At that time, LRAC reported that they get involved with projects when there is a wetland permit or a shoreland permit. Mr. West reported that he is hoping to address any issues and answer any questions that the Board might have for the LRAC. He made the following points:

- Pertaining to the Aquifer Protection Regulations, which regulate manure management, hazardous waste, and things of that nature, a house lot of this size would not have an issue complying with that regulation. There is nothing in this proposed subdivision that would trigger an impact.
- Per his own functional assessment, there are no proposed wetland impacts. It is up to the Board as to whether or not they want to restrict the use of the land.
- Pertaining to the FEMA flood plane, it is recommended that construction be restricted in that area. This lot could be developed without obtaining a shoreland permit.
- If a shoreland permit is applied for, the LRAC would ask for a Natural Heritage Bureau data search as well as determine impervious areas.
- No turtle nests, eggs, or evidence of turtle digging were found on the site.
- If the applicant applies for a wetland permit, the NCC would review the plans. If the applicant applies for a shoreland permit, the Town Clerk would be notified.
- As for whether or not the driveways will be paved, that is not known at this time.
- Silt sock is now widely used for erosion control.

Mr. Viel asked Mr. Haney if he would like to speak to any updates on the revised plans. Mr. Haney noted that a wetland scientist stamp and signature would be needed on the final plan set.

Mr. Viel noted that there was a miscommunication regarding whether or not an applicant had to be present before the NCC in order for them to review and provide feedback on a plan set. He further noted that, at a prior meeting, the Board had accepted the application as complete as well as approved a motion that the case is not a development of regional impact. He reiterated what he had mentioned in a prior meeting that the well radius of Lot #3 has to fit within the new boundaries, as per the *Subdivision Regulations*. He further noted that, before this case came before the Board, the Board had voted on some additional *Zoning Regulations* that have since passed via a vote from the Town. This case is subject to those additional regulations, which include a twenty-five (25) foot no-disturb vegetative buffer around wetlands as well as changes to the Aquifer Protection District.

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126 Mr. Viel read some comments previously submitted by Mr. MacKinnon in anticipation of his  
127 absence from this meeting. He requested additional pins around some of the boundaries. He  
128 inquired as to the 3.54 acre area of Lot #1 and whether or not this includes everything below the  
129 wetlands. Mr. Boyd responded that this is correct.

130

131 Mr. Boyd reported that it would be a good idea for his team to add the twenty-five (25) foot  
132 buffer to the plans for recording. Mr. Viel stated that some applicants erect placards to help  
133 landowners to identify where the buffer is. Mr. Boyd asked if that is a requirement. Mr. Viel  
134 replied that it would be up to the Board.

135

136 Mr. Viel, reading from Mr. MacKinnon's comments, advised that the deeds should reflect any of  
137 the addition restrictions that impose upon these lots, in particular, the Aquifer Protection District,  
138 so that any landowner purchasing these lots would be aware.

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140 Mr. Viel stated that this plan set appears to be much better than the one the Board reviewed  
141 previously.

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143 Mr. Viel opened the public hearing at 7:27PM.

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145 Samuel Demeritt, NCC Chair, came forward and inquired as to whether or not the Natural  
146 Heritage Bureau (NHB) had been contacted. Mr. West responded that he had not contacted them  
147 because their services are not triggered for this type of project. He further advised that, in order  
148 to trigger the need to contact them, the applicant needs to be applying for an Alteration of  
149 Terrain permit or a Wetlands or Shoreland permits. He said that any landowner can ask for a  
150 check, but that the NHB would just refer to a list of species that are known to occur in  
151 Nottingham. He reported that he has never had to contact the NHB for anything other than state  
152 requirements. He suggested that one might not be able to obtain a NHB data search unless they  
153 are applying for one of those three permits. He noted that he had been asked to do a turtle search  
154 of the property because there is an endangered turtle species in a habitat across the street.

155

156 Mr. Viel closed the public hearing at 7:29PM.

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Mr. Viel suggested that, to avoid concern or confusion, the applicant add a note to the plan set to indicate that no work is being proposed within the shoreland setback area. Mr. Boyd indicated that they would do so.

Mrs. Bascom inquired as to whether or not a potential buyer of Lot #3 would be advised of the restrictions before purchasing the lot. Mr. Viel responded that that would depend on whether or not the buyer has done their due diligence. Ms. Andersen advised that the potential buyer could, and probably should, pull the deed in order to look at the history of the lot.

Mr. Davies asked if the final plan set would clarify the building envelope of Lot #3. Mr. Boyd reported that it would, and that it did not on the current plan set due to a printing error.

Mr. Boyd asked how many copies of the final plan set the Board requires. Mr. Viel responded that the Board requires two (2).

***Ms. Andersen made the motion to conditionally approve Case # 23-002 SUB Concrete Products (100 Smoke Street) with the following conditions:***

- ***Standard conditions of approval***
- ***Note on the plan, to be recorded on the Registry of Deeds, that no work would be done in the shoreland zone***
- ***Clarify the building envelope in Lot #3***
- ***Place pins on Lots #2 and #3 as required***
- ***Include the twenty-five (25) foot no-disturb buffer around the wetlands***
- ***Note on the plan, to be recorded on the deed, allowances and uses and conditions of the Aquifer District***
- ***Shift the well radius of Lot #3***

***The motion was seconded by Mr. Davies. The motion was unanimously approved by a vote of 4-0-0.***

**Other**

***Case # 22-014 SUB Falzone – Stevens Hill Road. Sign Mylar.***

Mr. Viel reported that he signed the Mylar earlier this evening.

***Case # 20-003 SUB Diberto – Mitchell Road. Sign Mylar if possible.***

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Mr. Viel stated that the Board is awaiting final comment from Town Counsel before signing off on the Mylar.

***Review Recent NHDES Notices / Abutter Notifications***

Mr. Viel advised the Board that they are welcome to look at a number of shoreline permit applications that are before the Town at this time.

**Public Comment**

None.

**Approval of Minutes**

None.

**Miscellaneous / Housekeeping items**

***Application Hearings Checklist***

Mr. Viel suggested that the “findings of fact” item should be added to the “Application Hearings Checklist” under item #14.

***Town Budget***

Mr. Viel thanked the Town for supporting the Town Budget, which included funds for the Town to become a dues-paying member with SRPC. This aligns Nottingham with many other towns in the region. With membership comes some additional benefits, as well as Nottingham’s Commissioners having the opportunity to vote. Mr. Viel asked Mr. Haney to follow up with SRPC and make sure they are aware that Nottingham has the funds to pay for full membership.

***Impact Fees***

Mr. Viel stated that the Impact Fees need to be reviewed, re-adopted, and amended as needed. He advised that in the past, the Board and the Town have used a third-party agency to head this process.

***Master Plan***

Mr. Viel reported that it has been about ten (10) years since the Master Plan was adopted. The Board will need to review it, do some clean-up, and re-adopt it.

***Fees***

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Mr. Viel noted that the Board can recommend fees to the Select Board, who then implement them.

***Third Party Review***

Mr. Viel suggested that the Board along with the new Town Administrator, Ellen White, determine the best way to log hours put in to a project when a third-party reviewer is involved. Currently, the applicant gets billed for the time that Town Counsel spends reviewing a project. Discussion should be had as to whether or not SRPC or other third-party agencies would bill for their time, as well.

***Capital Improvement Project (CIP)***

Mr. Viel noted that the Town's CIP has been operating under the Select Board but that it should be operating under the Planning Board.

***Subdivision / Site Plan Regulation Updates***

Mr. Viel recommended that the *Subdivision Regulations and Site Plan Review Regulations* are due for updates now that the ordinances submitted by the Board were passed by town vote.

Mr. Davies suggested that a list be created by the Board of highest priority items for the year.

**Select Board and Staff / Board Member Updates**

Mr. Davies had no comment.

Mrs. Bascom had no comment.

Mr. Viel reminded the Board that there is a meeting scheduled for April 26<sup>th</sup>, 2023.

Ms. Andersen requested that she be mailed a hard copy of any plans for review prior to Board meetings.

Mr. Haney advised that there are some grant dollars available for the State to do evaluations of the Town's master plan.

Mr. Viel reminded the Board that members should be treating each other and applicants with respect, as the Board is a professional body.

**Adjourn**

The meeting was adjourned at 8:09PM.

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287 Respectfully submitted,

288 Rachel Russell Leed, Transcriber