

Nottingham Planning Board Meeting

DATE: June 28, 2023

Un-Official Minutes

Call to Order

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

Members Absent: None.

Alternate Seated and Voting: Mr. Davies was seated and voting for the vacant position.

Others Present: Blair Haney, SRPC; Alana Kenney, Land Use Clerk; Christopher Berry, Berry Surveying & Engineering.

Call to Order

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

Public Hearings

Case # 23-004 SUB Residences At Fort Hill - Smoke St & Fort Hill Road (Continued): Application from Berry Surveying & Engineering, on behalf of Owl Ridge Builders, requesting a twenty-five (25) lot open space subdivision. The property is located at Smoke Street and Fort Hill Road in Nottingham, NH and is identified as Tax Map #23, Lot #11. Two conditional use permits have been applied for. Article III, Section B, Item #6 permits a request to allow disturbance within 25 feet of a wetland. Article IV, Section S, 8.2 permits a request for lots that have a larger than maximum area, allow frontages less than prescribed, and allow a reduction to the landscape buffer.

Mr. Viel noted that this case had been continued for two reasons; one was that the Board had some questions for Town Counsel that have since been answered, and the other was that the Board was waiting for the engineering review provided by CMA Engineers.

Ms. Mooney made the motion that the Board move into non-public session pursuant to RSA 91-A:3, I, and 91-A:3, II (l) so that the Board could review the response from Town Counsel. The motion was seconded by Ms. Andersen. The motion was unanimously approved by a roll-call vote of 7-0-0: Mr. Davies, aye; Mrs. Bascom, aye; Mr. Morin, aye; Mr. MacKinnon, aye; Ms. Mooney, aye; Ms. Andersen, aye; Mr. Viel, aye.

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The Board moved into a non-public session at 7:04PM and returned at 7:27PM.

Mrs. Bascom made the motion to close the non-public session and seal the minutes per RSA 91-A:3, III. The motion was seconded by Ms. Mooney. The motion was unanimously approved by a roll-call vote of 7-0-0: Mr. Davies, aye; Mrs. Bascom, aye; Mr. Morin, aye; Mr. MacKinnon, aye; Ms. Mooney, aye; Ms. Andersen, aye; Mr. Viel, aye.

Christopher Berry of Berry Surveying and Engineering came forward.

Mr. Viel recalled that the Board had requested Town Counsel's input regarding Conditional Use Permits (CUPs) and what the Board's authority is. He noted that the way the *Zoning Ordinance Regulations* articles are currently written Article 4:S VII (f) grants the Board authority for CUPs, but that subsection VIII does not address maximum lot sizes nor frontage. He stated that it appears that the Board does not have authority to grant a CUP and that these items would more than likely require a variance.

Mr. Viel expressed that the Board could act on the CUP; either approving, denying, or denying without prejudice if it is something that the Board does not have authority over. Alternatively, the applicant can withdraw or amend the CUP application. He noted that if the Board denies without prejudice, appeals of the denial would go to Superior Court. If the CUP is not within the Board's realm but is still within *Zoning*, the applicant would need to go before the Zoning Board and request a variance.

Mr. Berry reviewed the CUPs they are requesting so as to better understand which ones the Board has purview over:

- Regarding landscape buffers, the Board does have purview to grant a CUP.
- Regarding lot sizes that exceed the maximum, the Board does not have purview to grant a CUP.
- Regarding frontage, the Board does not have purview to grant a CUP.

Mr. Berry asked for clarification that having lot sizes that exceed the maximum or frontages less than one hundred (100) feet would require variances from the Zoning Board. Mr. Viel confirmed this.

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Mr. Berry stated that, if the Board is inclined to determine that it does not have jurisdiction over those two (2) items, then the Board has the administrative authority to make that decision and advise the applicant that relief can be sought at the Zoning Board. He noted that the Board taking a vote at this time would allow the applicant two (2) courses of action with the Zoning Board: an appeal of an administrative decision or requesting a variance from a *Zoning Ordinance*.

Mr. MacKinnon made the motion that the Planning Board deny without prejudice the Conditional Use Permits for Case # 23-004 SUB relative to the requirements under Article IV: S VIII (a) Table 1 regarding requesting larger than maximum lot sizes and allowing frontage less than the minimum required, reason being that, per Legal Counsel, the Board does not have authority to grant relief such that maximum lot size can be increased or frontage less than the minimum can be granted. The motion was seconded by Mr. Davies. The motion was approved by a vote of 6-0-1.

Mr. Viel noted that the finding-of-fact in this situation is that, under the current *Zoning Ordinance* Article IV: S (Open Space Subdivision Authority), the standards call out some areas where the Board can issue CUPs but do not specify that they can grant authority over maximum lot size or frontage less than the minimum required.

Mr. Berry noted that his team had a meeting with the Interim Fire Chief since the last time they were before the Board. The Chief requested a different type of cistern as well as the ability to park two vehicles lengthwise but also two vehicles side-by-side so that it could be more readily used by the public. This would increase life safety in the general area.

Mr. MacKinnon made the motion to continue Case # 23-004 SUB to the July 26, 2023 meeting at 7:00PM. The motion was seconded by Mrs. Bascom. The motion was unanimously approved by a vote of 7-0-0.

Other

Review Of Land Use Clerk / Application Processes

Mr. Viel reported that he asked Ms. Kenney for a review of the Land Use Clerk scope of position as well as the application process after the position was vacant for a period of time. He wanted to get a sense of the “flow” of the position and what day-to-day operations look like. He would like the Board to be aware of what the position entails and what processes are in place for the future.

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Mr. Viel asked Board members to refer to the “Town of Nottingham Land Use Clerk Processes and Procedures” item in their packets for comments:

- Monthly duties
 - Prepares monthly calendars to include:
 - Any Planning and Zoning meetings
 - Application deadlines
 - Notices of public hearings
 - Deadlines for new materials or provisions to continued cases
 - Final agenda and when that should be posted
 - Notices of decisions and when those need to be posted
 - Make sure that acceptance of all applications are before the monthly deadline
 - Review applications for completeness (including the application checklist)
 - Calculate fees and accept payments in the form of a check, which is then passed on to the Bookkeeper
 - Create new case number and folder
 - Scan application and plans and add to current applications on the Town website
 - Create public hearing notice and post at the Town Hall, Post Office, Town website, and the Union Leader newspaper
 - Email/mail all application documents to Planning Board members
 - Email case information to other Town departments, including Public Works, Police, Fire, Building Inspector, and Conservation Commission requesting any comments they would like to include in the meeting
 - Create a meeting agenda and run it by the Planning Board Chair or Co-Chair before sending it out to be sure we have everything we need
 - Finalize agenda and post at the Town Hall, Post Office, and Town website
 - Email agenda to all Planning Board members, along with any new information
 - Prepare binders prior to the meeting with agenda and all new information to be discussed
 - Set up meeting with binders, sign-in sheet, and any other documents
 - Attend meeting and make sure to note any important decisions made or requirements needed for continued cases
 - Emailing third parties that the Planning Board would like information from (including CMA Engineers, Town Counsel, Lamprey River Advisory Committee, and others)
 - Create and send out Regional Impact notices and minutes to abutters and SRPC when needed
 - Create and post notices for walk-throughs/site walks as needed
 - Take minutes and type them up for the site walks
 - Keep Town website updated with all materials related to the case
 - After the meeting, Administrator will post the video on youtube
 - A minute-taker should release a draft of the minutes within five (5) business days of the meeting
 - Create a Notice of Decision for any closed cases
 - Email the Notice of Decision to all Planning Board members and applicant and post it at the Town Hall, Post Office, and Town website

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- Move any closed cases from the Current Applications on the website to the Completed Applications
- Follow up on any outstanding items or conditions on continued or closed cases
- Make sure closed cases are filed with the Registry of Deeds and keep a copy of plans and documents in the Town files
- Annual duties
 - Create an annual meeting calendar for both Land Use boards to be approved
 - Assist in preparing and posting Zoning Amendment warrant articles to be voted on at Town Meeting
 - Assist in updating and posting *By-Laws*, regulations, and applications

Mr. Viel welcomed questions or comments from the Board.

Mr. MacKinnon suggested removing the term “walk-throughs” as it could be confusing to some. He further asked for clarification regarding how Ms. Kenney “creates a new case number and folder”. Ms. Kenney advised that she makes a physical folder as well as uploads all documentation to a shared computer drive for Planning and Zoning. Mr. MacKinnon suggested adding details as to how she completes each task. Ms. Andersen seconded this idea and suggested using the word “processing” in place of “accepting” when discussing applications.

Mrs. Bascom suggested including the Zoning Board, or indicating “Land Use Boards” where Ms. Kenney mentions the Planning Board.

Mr. Viel expressed that he prefers that all communication between the Planning Board and an applicant be done through the Land Use Clerk’s email.

Mr. Haney asked if the Board is still requiring an electronic copy of a plan set from an applicant. Ms. Kenney advised that larger engineering firms will usually provide an electronic copy but she does not require it of anyone. Discussion followed regarding the encouragement of applicants to provide a PDF version of a plan set so that it can be easily uploaded to the Town website.

Ms. Mooney suggested that Ms. Kenney make a note of what the binders that are distributed to Board members contain.

Ms. Kenney stated that she would update the document with changes and send it out to Board members again.

Mr. MacKinnon noted that it would likely be a working document.

Mr. Morin stepped away from the table at 7:55PM.

Mr. Viel announced to the public that the Board has a vacancy. Pertinent to RSA 673:12, III, he noted that the Board has the authority to continue to fill the seat per-meeting with an alternate while the vacancy remains posted. The Board also has the authority to vote someone into that seat for the remainder of the year until the next municipal election (per RSA 673:12, I).

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Ms. Kenney advised that the Board has not received word from any persons with interest in the position, but that the position remains posted on the Town website.

Mr. Morin returned to the table at 8:04PM.

Mr. Viel advised that anyone interested in the position should email the Land Use Clerk so that they may be put on the agenda for the next meeting.

Public Comment

None.

Approval of Minutes

Ms. Andersen made the motion to accept the minutes of June 14, 2023 as amended. The motion was seconded by Mrs. Bascom. The motion was unanimously approved by a vote of 7-0-0.

Select Board and Staff / Board Member Updates

Mr. Davies had no update.

Mrs. Bascom reported that she recently attended the Strafford Regional Planning Commission (SRPC) Annual Meeting. She had the opportunity to talk with some people regarding a current case before the Zoning Board involving a resident who wishes to have more than five (5) animals within the Aquifer Protection District. She noted that the Zoning Ordinance does not define “animals”. She has reached out to someone from the University of New Hampshire (UNH) Cooperative Extension and is awaiting a response and has also reached out to SRPC. She is seeking some guidance as far as “what constitutes an animal and how many of what animals create how much of an impact”. She suggested that the Board think about addressing this issue at the upcoming joint meeting of the Planning Board, Zoning Board, and Conservation Commission (scheduled for August 23, 2023).

Mr. Morin reported that the Select Board recently had a very productive meeting with the Town Clerk, Lori Anderson, in which they discussed the need of the Town to crack down on dog licenses. In 2022, the Town generated over \$6,000 in dog license fees. He stated that every little bit helps the town. The Board recently met with Kevin Bassett of Lamprey Drive to discuss Town roads. When the Town’s lake roads were acquired, they were acquired as-is, and some are only fourteen (14) to eighteen (18) feet wide in spots. Mr. Bassett proposed the widening of the roads to meet the required twenty-five (25) feet if he wanted to subdivide his land in the future. Essentially, he would be gifting land to the town in order to meet this requirement. Mr. Morin expressed that it was a nice gesture on the part of Mr. Bassett. He reported that the Select Board also recently held a workshop to review the Recycling Center. The Select Board reviewed policies and terms as well as the conditions of the building and equipment. He noted that the

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Recycling Center has become quite expensive to run, especially with the four percent (4%) tax cap that has been instituted. Ms. Andersen suggested that a Recycling Center Committee be formed to look into these issues as the Town has had such a committee in the past.

Mr. MacKinnon noted that he will not be present for the July 12, 2023 meeting but will plan to attend the July 26, 2023 meeting.

Mr. Viel reported that one of the cases on the agenda for the July 12, 2023 meeting has requested that the case be continued to the following meeting. He expressed that this will be voted on at the July 12, 2023 meeting.

Ms. Mooney had no update.

Ms. Andersen reported that she has sent an email to the Select Board and the Town Administrator regarding \$10,000,000 that the New Hampshire Department of Transportation (NHDOT) has made available to municipalities to convert diesel trucks and buses. This funding would cover eighty percent (80%) of the cost to convert the diesel truck or bus to an electric vehicle.

Mr. Haney reported that SRPC's Annual Meeting was a "sold out" success. The keynote program featured a panel of speakers who presented and discussed rooftop solar systems.

Ms. Kenney noted that she would be sending out another case to add to the July 12, 2023 meeting. In the site review, a resident on McCrillis Road is interested in establishing a wood processing facility on his property.

Adjourn

Mr. MacKinnon made the motion to adjourn. The motion was seconded by Mrs. Bascom. The motion was unanimously approved by a vote of 7-0-0.

The meeting was adjourned at 8:47PM.

Respectfully submitted,
Rachel Russell Leed, Transcriber