

Nottingham Planning Board Meeting

7/28/21

Official Minutes as of 8-25-21

Call to Order

Members Present: Vice Chair Eduard Viel; Gary Anderson, SRPC Rep; John Morin BOS Rep; Susan Mooney, Secretary; Charlene Andersen, SRPC Rep; Robert “Buzz” Davies, Alternate

Members Absent: Chair Dirk Grotenhuis, Ian MacKinnon

Alternate Seated and Voting: Robert “Buzz” Davies, Alternate for Dirk Grotenhuis

Others: Lorraine Petrini, secretary; Jen Czysz, SRPC Planner; Kevin Bassett, resident; Peter Landry, surveyor; Mark Wasson, applicant; Sam Demeritt, Conservation Commission Chair; Brooke Schaefer, abutter; Diane Bernard, abutter; Herb Bernard, abutter; Paul Crovo, abutter; Mike St. Laurent, non-resident; Nathan Tandy, resident; Kerry Tandy, resident; Jennifer Menard, resident; Michael Menard, resident; Tami DeFrancesco, applicant; Jim George, applicant; Griswold, supporter; Lee Weldy, abutter; Sharon Weldy, abutter; Nicole Robbins, supporter; James Gregoire, supporter; Steven Reynolds, NorthEast Watercross

Call to Order

The meeting was called to order at 7PM.

Roll call

Roll call was completed.

Public Hearings

Case #21-012-SUB-Application from Nathan Tandy, requesting a two (2) lot Conventional Subdivision (backlot). This property is located at 22 Gile Road in Nottingham, NH, and identified as Map 28 Lot 10.

Peter Landry spoke on behalf of the Tandys. The land is currently owned by Ms. Tandy’s parents. The applicants are proposing a 2-lot subdivision starting with eight (8) acres. This will allow for reduced frontage. There is an existing dwelling, septic, and driveway on the property now. There will be three (3) acres around the existing house.

Ms. Czysz said the checklist is complete.

Mr. Anderson made a motion to accept the application Case #21-012-SUB as complete. Ms. Mooney seconded. Unanimously approved by a vote of 6-0.

Ms. Mooney made a motion to state that Case #21-012-SUB is not an application for regional impact. Ms. Andersen seconded. Unanimously approved by a vote of 6-0.

Mr. Landry said this is a scenic road and said that they had visited the Conservation Commission to get their blessing on this. There will not be a need for another driveway.

A copy of the letter of review from the Commission was given to Mr. Landry.

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36 Ms. Czysz reviewed the staff report. The existing house predates zoning. Clarification is needed
37 regarding the proposed access easement to Lot 10; the easement should be provided to the
38 Planning Board. Sample deed language should be included. There is a math mismatch with
39 labels (sic). Mr. Viel said Mr. Landry may need to review the Zoning Ordinance about backlots
40 and shared driveways. Mr. Viel said Mr. Landry can request relief from the shared driveway
41 from Zoning Board.

42 Ms. Mooney asked Ms. Czysz if the applicant's parcel lies outside the aquifer zone. Ms. Czysz
43 replied that she believes so. Nottingham does not have an aquifer district overlay map that
44 matches with the town tax map, but it appears that the parcel is not in the aquifer zone.

45 Mr. Landry said the document says 67 not 57 and there is no math mismatch. The specific note
46 for preclusion will be put on there. An assess easement will be drawn up. He said the deeds
47 aren't typically written before the lot is sold but the deed will reference the note. He will do
48 whatever the Planning Board requests. The line depicts the neck area of the lot is on the plan.
49 Mr. Viel suggested putting this info in another area for clarification.

50 Ms. Mooney said when the applicants came to the Conservation Commission, they were pleased
51 by the care given to the wetlands and not putting in a driveway where it is not necessary.

52 Ms. Andersen reiterated that Mr. Landry would put in the language for the easement as while this
53 is a family dwelling for today, the language should be in the deed for the future. Mr. Landry
54 concurred.

55 Mr. Anderson asked where the proposed driveway is going to go in, do they expect any
56 disruption of trees? Mr. Landry said they will not construct a driveway; they will use the existing
57 driveway to continue to the new easement. There is plenty of site distance if they did build the
58 driveway in the future.

59 Ms. Andersen said the new driveway, if it was ever to be created, may need to get a variance due
60 to the steep slopes or the wetlands. Mr. Landry said he wasn't aware that they could not build a
61 driveway through the slopes.

62 Mr. Viel asked about the wetland stamp. Mr. Landry said the note is on there but the stamp is not
63 on there yet. It will be on there for the final version. Mr. Viel spoke about the wetlands and if
64 they are poorly drained or very poorly drained. It will be labeled by Mr. Landry as poorly
65 drained.

66 Mr. Viel said he understands the intent of the shared driveway but he is not sure if the current
67 zoning allows it for a reason. Backlots have their own zoning requirements about driveways and
68 shared driveways also have specific language as to placement. The proposed shared driveway
69 would also be bisecting the current lot and therefore the contiguous area. He asked if there is an
70 access easement. Mr. Landry asked if what Mr. Viel is saying is that he wants to show a
71 driveway all the way to back even they won't build that. Zoning wise, Mr. Landry said they can
72 go from the road to the back with the driveway but they weren't going to build that but they can
73 show that. The easement should be looked at as the primary driveway. Mr. Viel said they don't

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allow two driveways to the same lot this close together. Mr. Landry said he doesn't think this is a zoning issue. Mr. Viel said the land is owned by someone else. Mr. Landry said the land is owned by one person. If approved, the parent lot would be bisected. They would have to consider making a non-conforming lot even more non-conforming. Mr. Viel said relief from the Zoning Board of Adjustment (ZBA) is needed. He asked if the driveway is placed as it is suggested, are they bisecting the land and making it more non-conforming. Mr. Landry said they are trying to balance all of the rules. If they are deficient in some way, he asked the Board to tell him how, and they will get a variance if they need to. Mr. Landry said before the project got started, Ms. Tandy and her father met with the Building Inspector and the Zoning Board secretary.

Mr. Viel said Mr. Landry may need to review the Zoning Ordinance about backlots and shared driveways. Mr. Viel said Mr. Landry can request relief from the shared driveway from Zoning Board.

Mr. Landry will go to Zoning Board of Adjustment.

Ms. Czysz said she believes the contiguous area will not be an issue.

Mr. Davies suggested getting a legal opinion before Mr. Landry go to Zoning Board. Mr. Viel concurred.

Public Comment

There was no public comment.

The case will be continued to August 11.

Ms. Czysz said they can give summarized next steps to Mr. Landry after the Planning Board speaks to their lawyer.

Ms. Mooney made a motion to continue Case #21-012-SUB to August 11 at 7pm. Mr. Anderson seconded. Unanimously approved by a vote of 6-0.

Continued Case #21-010-LLA-Application for a Lot Line Adjustment from Mark C. & Patricia A. Wasson and 70-25, LLC. The property is located at Lamprey Drive in Nottingham, NH and is identified as Map 70 Lots 23 & 25.

Mr. Landry, surveyor, and Mr. Wasson presented the application.

Mr. Viel said there was a legal opinion on this. Lamprey Road is a town road now. Mr. Landry asked if the Planning Board is now saying the lawyer has determined that the paper streets on Lamprey Drive are now town roads. Mr. Viel said if it is labeled as Lamprey Drive, it is now a town road. The Board of Selectman and the Town Administrator will have to look into this. Mr. Landry said he has more information to present but he believes that the Board will agree with their lawyer. He had five items that he would like to express. He would like to hear Ms. Czysz's opinion on lot line adjustments.

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109 Ms. Czysz said it would be a lot line adjustment. It doesn't correct any non-conformities. It
110 won't be guaranteed that it will go forward without a variance. She said you can own land on
111 both sides of the road but the town may take the right of way across that.

112 Mr. Landry said they are asking the Planning Board to approve something that is less than two
113 (2) acres. Ms. Czysz said they are asking for a lot less than two (2) acres. Mr. Landry said they
114 are talking about a lot line adjustment. Now that it's a town road, they can't make the lot bigger
115 because it's across the street now.

116 Mr. Viel said that to his knowledge, a lot line adjustment across a road has not been requested in
117 the 10 years he has been a member of the Board. Mr. Landry said Town Warrant Article 19 has
118 nothing to do with this. He said it will be a separate lot across the street. He asked how is the
119 Board going to justify that; he thought it would be a subdivision instead of a lot line adjustment.
120 Mr. Landry said his client will have to see if he wants to have two lots. Mr. Wasson asked if he
121 will have a contiguous area if it is across the street. Ms. Czysz said it won't be a contiguous area.
122 Mr. Viel said it would be bisected. Mr. Landry said he thought it was a subdivision.

123 Mr. Landry read Article 19. He said the town hasn't been maintaining these paper streets. He
124 passed information to the Board. He said if the road wasn't properly dedicated, it can't be
125 accepted. He said the dedication for the paper streets ended in 1985. He feels strongly that paper
126 street dedication has to be completed within twenty years, and it ends automatically unless it was
127 accepted by the municipality. He stated he believes the paper streets are still private. The current
128 landowner wasn't notified and didn't get compensated for the road. What was accepted wasn't
129 clearly identified.

130 Mr. Viel said those are valid points and the Board of Selectman tried to clarify and amend
131 information on the article but it was voted down at the deliberative session so the article went to
132 the town's elections as is. Mr. Viel said the abutters and landowners have the most to say about
133 this but it's beyond the purview of this Board.

134 Mr. Landry requested the Board publish the attorney letter given to the Planning Board on the
135 website so the public can see what the town attorney has told the Board. Mr. Viel said Warrant
136 Article 19 said that these are town roads and were accepted as is.

137 Mr. Wasson is hoping to build a bigger house on Lamprey Drive. Mr. Morin said what if the
138 residents on Lamprey Drive don't want to have the town accept their road.

139 Ms. Czysz said this application hasn't been accepted. Mr. Viel said it was accepted as complete
140 at a prior meeting.

141 Ms. Mooney asked if the applicant has asked if the people on Lamprey Drive want to change the
142 name of the road and they can give that suggestion to the Selectboard. Ms. Mooney asked if the
143 town could reconfigure Lamprey Drive in this section so there is contiguous land. Mr. Wasson
144 said it would be up to the owners. He said it was basically a driveway that was added on this
145 year.

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146 Mr. Morin said due to Emergency 911, some streets will be renamed and organized. Mr.
147 Anderson said the Article 19 stated roads have been maintained; if it's a paper road that hasn't
148 been maintained, maybe it will be privatized.

149 Ms. Andersen said this is the first case that has come before them. She said she has a lot of
150 questions, and the town attorney should be present. Mr. Viel said they can look to the
151 Selectboard for guidance as well.

152 Public Comment

153 Mr. Bassett owns the land in question. He is asking the Board to define the maintenance on
154 emergency lanes. Mr. Davies said he believes that it should be established through the
155 Selectboard. Mr. Bassett wants to know what parts of these roads are maintained. Mr. Viel said
156 he can ask what roads are maintained or will be maintained now.

157 Ms. Schaefer said she lives on Lamprey Road. She doesn't want to change her street name. Mr.
158 Viel said beyond two (2) driveways generally, it's a road. Mr. Anderson asked about her building
159 permit. He asked if she went before the Selectman to sign something. Ms. Schaffer said she
160 didn't have to sign anything but she had to go before the Zoning Board for a variance.

161 Mr. Bernard built his house in 1970 on Lamprey Drive. It needed to be 33 feet wide and
162 accessible to abutters. He put the road in through his lot and down the hill. The town has been
163 maintaining that. Dolloff Dam Road had no houses on it when he bought his property and was
164 one lane wide. He has been passing through that road since the 90's. He pushed the road through
165 Lot 11 on Lamprey Drive. The road agent at the time, Mr. Fernald, plowed it. Mr. Bernard said
166 he didn't live there in the winter so he didn't care if it wasn't plowed. He said he put the road in
167 from Lot 11 to Lot 15, and he paid for it. Behind some lots, it is 33 feet wide.

168 Mr. Bernard asked who would put in another road from another way. Mr. Davies asked if Mr.
169 Bernard was speaking for or against this case. Mr. Bernard said he was stating that this is a road.

170 Mr. Bernard showed Mr. Viel where the access road is. He said the road has been maintained all
171 these years. He said the road hadn't been plowed for many years ago because he wasn't there. He
172 said since 1973, the road has been an actual road, not a paper road. He reiterated he made the
173 road.

174 Mr. Viel said the older plans are going to be a starting point for the Selectboard and Town
175 Administrator to figure out what the roads are. He said this needs more legal review. Mr.
176 Bernard reiterated he put in the road, and he said the town accepted it.

177 Mr. Bassett said the road is not contiguous from Lots 17-23. The Selectboard needs to change the
178 tax maps. He will be exploring an easement for his house.

179 Mr. Bernard said the town put up a sign for Lamprey Drive which is at the top of the hill. It's not
180 on the map but it's been there since its inception. The sign was put on both sides of the road. The
181 driveway is not on the map, and the town has been plowing that driveway.

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182 **The Public Hearing was closed at 8:42pm.**

183 Mr. Viel said there isn't enough information to accept this as a lot line adjustment at this time.
184 They need more information from the town attorney, Town Administrator and Selectboard.

185 Mr. Anderson asked if they need to make a formal request from the Selectboard to look into this.
186 Mr. Viel said they want the Selectboard to handle the roads that are before the Planning Board as
187 a priority.

188 Mr. Landry suggested an extension for this Case. He isn't sure if the Board has a consensus if
189 this is a subdivision. Mr. Viel said they need additional information from their attorney. Mr. Viel
190 said perhaps they will have a joint meeting with Selectboard.

191 Mr. Viel suggested this case continue to August 11. Mr. Davies suggested if they are bringing
192 the Selectboard in, it may have to be further out than August 11. Mr. Morin said the Selectboard
193 needs at least a month out. He suggested the Selectboard will reach out to the Planning Board.
194 Mr. Viel suggested August 25.

195 **Mr. Davies made a motion to continue Case #21-010-LLA to August 25 at 7pm. Ms.**
196 **Mooney seconded. Unanimously approved by a vote of 6-0.**

197 *Continued Case #21-003-SIT-Application from Tami DeFrancesco, Trustee of Kubota Trust,*
198 *requesting approval of a Watercross event to be held three (3) times a year starting in 2021.*
199 *The property is located at 214 Raymond Road in Nottingham, NH and is identified as Map 69*
200 *Lot(s) 8 & 10.*

201 Ms. DeFrancesco and Mr. George are at the meeting.

202 Ms. Czysz noted information from the packet the Planning Board is reviewing. She has gone
203 through the responses and that's the updated information that the Planning Board has.

204 Mr. Viel said one of their questions from a previous meeting was if another variance was needed
205 for the Aquifer Protection District. He said based on that review, another variance is not needed.
206 He said there was a rehearing granted for this case from the Zoning Board on August 17. The
207 Planning Board cannot make any final action until the Zoning Board rehears the case.

208 Ms. Czysz went over the comments from the staff review. The Board needs to discuss if the
209 information is adequate for Section A. In Section C, they need to decide what determines an
210 accessory structure.

211 Mr. Viel read information about an accessory structure. Mr. Davies asked if they can have only
212 one camper on the lot at a time. Mr. Viel said he doesn't know. Ms. DeFrancesco said they can
213 move campers to one area or another if setbacks are a concern.

214 Ms. Czysz said Section D and K are related. The results of sound testing was discussed, and
215 there was a video updated for the Board to review. There is a letter submitted from an abutter,
216 and they didn't object to the sound. There are plans to place trailers to reduce sound, and fencing
217 will be installed when money is available.

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218 Ms. Czysz said adequate services are needed for the number of people that are attending. She
219 asked what the maximum number of people would be and how are they monitoring that. There
220 must be enough portable toilets for the number of people who are in attendance. Also they need
221 to know how many people can be in the spectator area. Mr. Viel said they would normally put a
222 timeframe in for when the fencing should be installed.

223 Ms. Czysz said permission must be granted for a secondary means of egress. Ms. DeFrancesco
224 said it's a public access. She said every road on the lake has only one way in. She said her
225 property is a big L. It's a logging road that goes across. She said they drive out there; it's not a
226 right of way. Going through the abutting Southeast Land Trust (SELT) property, it would be
227 shorter way out. Ms. Czysz said it needs to be labeled. Ms. DeFrancesco said the town didn't
228 survey the whole property. She said the trails go all the way to Epping. There is a second logging
229 trail. Ms. Czysz said to have the logging trails clearly labeled. Mr. Viel said the emergency plan
230 is off the property. The abutter would have to approve that. Ms. DeFrancesco said there is a
231 shortcut going through the SELT property but there is a longer way out that can be provided as
232 well.

233 Ms. Czysz said the emergency plan was submitted at the last meeting. The Planning Board needs
234 to look at that to determine if it meets all requirements. She noted what should be in the plan.

235 Ms. Czysz asked how they determine the maximum capacity. Mr. Morin questioned how they
236 figure that out as well. Ms. Czysz suggested the fire department may have input. Ms.
237 DeFrancesco said she measured the beach area of Pawtuckaway after Pawtuckaway State Park
238 said they can hold a maximum of 1000 people. That property was 7 acres. They have only one
239 access way in. Based on this, she said her property could hold up to 5000 people but she would
240 not want that many; however, it could accommodate that based on the Pawtuckaway State Park
241 beach measurements.

242 Ms. Czysz asked what the racecourse was. Ms. DeFrancesco said it's in the water. It's fenced
243 off.

244 Ms. Czysz went over the note changes, corrections and additions.

245 Ms. DeFrancesco passed out an updated spill plan. She said they can move the trailers if need be.
246 She said have tally counters. There are portable toilets; Emil who owns the portable toilets is on
247 call if they need her. She will ask SELT's permission to use their land. There will be ear
248 protection provided. She will provide specific sound cancelling ear protection to the condo
249 residents next door as well. All food trucks are state permitted. There will not be fireworks. They
250 are not doing anything with the aquifer; it won't be contaminated.

251 Ms. Mooney asked Ms. DeFrancesco about hand washing. Ms. DeFrancesco said hand sanitizer
252 is provided in each bathroom.

253 Ms. Andersen asked about the pit area. Ms. DeFrancesco said that is where the racers and racer
254 helpers go and that is where the fuel is. The fuel is in a sealed container. Ms. Andersen said there
255 is 75 spaces for cars and 20 for campers. She asked would that help to determine the capacity?

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256 Ms. DeFrancesco said they are going to count people this year. People come and go throughout
257 the days' events. Ms. Andersen said there could be an 'at most' capacity. Ms. DeFrancesco said
258 there will be an 'at most' capacity. The police department will be there; last time, there was not
259 any problems. She suggested the Planning Board speak to the police department as well.

260 Mr. Davies said there is no noise ordinance in town. Mr. Viel said the applicants have tried to
261 mitigate noise. Ms. Andersen asked if sleds have noise levels. Mr. George said it could be 107
262 dbs. Ms. DeFrancesco said it's not constant noise. There are two occupants in the condos who
263 are bothered by the event; she will buy them special noise blocking earphones. She doesn't want
264 to bother people. They do offer ear protection to the attendees.

265 Mr. Viel asked for a walk-through for a typical event. Ms. DeFrancesco said there are heats
266 done. They do drags first; that may go on for two hours. Then there are amateurs and pros that
267 race. They stop for an hour for an intermission. The event ends at 6PM. Ms. DeFrancesco said
268 they will stop the event from 3-4PM on a particular day for a wedding if they are allowed to have
269 their event in August as requested by a person close by who is having a wedding.

270 Ms. DeFrancesco said the racers are on a point system which is why they want to have three
271 races. The season ends at Epping Grass Drags. She said some people spend \$20K on a
272 snowmobile.

273 Mr. Viel confirmed with Ms. DeFrancesco that they will not do this type of racing except for
274 these three events during the year. She confirmed she will not have practice there every weekend
275 if she can have these three events. She said right now they can still have practices every
276 weekend. She said they chose one event in spring, summer and fall.

277 Public Comment

278 Mr. **Greg Iour** said Rochester State Fair have limited parking. The residents sell spots to park.
279 Verizon Center allow 11,000 people in their arena, and they don't have the parking for that.
280 Parking spots are sold by places that are close by. He said Ms. DeFrancesco has the property to
281 park. He said there shouldn't be a cap put on this. They don't know how many people will come
282 to this event. They have ample parking. They own the property and should be allowed to use that
283 for parking. They have parking attendants. As long as they have the toilets and safety facilities,
284 they should be allowed to have this event.

285 Mr. Viel said the Planning Board needs to plan for a number of things.

286 Mr. Weldy said there is a car show that goes on every Tuesday in town. There are no portable
287 toilets or police presence. Mr. Morin said there is a portable toilet. Mr. Weldy said there are cars
288 parked on Route 152. He said he feels the Planning Board is singling out one person. He said the
289 car show was authorized this year. He said Tami and Jimmy donated money to Food Pantry,
290 Scouts, etc. He said why can one do it when others can't? There are burnouts when people leave
291 the car show as well, and it's noisy. Mr. Viel said that enforcement isn't the purview of this
292 Board.

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293 Ms. Robbins said she handled the parking at the last watercross event. There are signs for Enter
294 and Exit. She explained how parking was handled at the last event. There were no issues with
295 parking. The police were enjoying the show because there were no issues with parking, etc.

296 Mr. St. Laurent said there is no sound restriction on snowmachines. He said he is speaking for
297 thirty residents. This is a new use that is prohibited. There is one pit area that people are pouring
298 ten gallons of gas into one gallon. They mix the gas and oil there. He said the gas is disposed on
299 the sand and the water. He believes this is prohibited.

300 **The Public Hearing was closed at 10:09pm.**

301 Ms. DeFrancesco said she would like conditional approval. Mr. Viel said they should continue
302 after the Zoning Board hearing. He suggested the date of August 25.

303 Mr. Morin asked if the Board has all the information needed so they can provide a response on
304 August 25 for the event.

305 Ms. Czysz suggested that Ms. DeFrancesco create an anticipated maximum capacity. Ms.
306 DeFrancesco verified that they can pick a maximum capacity even though they would not allow
307 that large of a number to but it would be the 'at most' capacity. Ms. Czysz said this number is
308 dependent on how many portable toilets are on the land. Mr. Morin said Emil would know how
309 many portable toilets they will need.

310 **Ms. Mooney made a motion to continue *Case #21-003-SIT* to August 25 at 7pm. Mr.**
311 **Anderson seconded. Unanimously approved by a vote of 6-0.**

312 **Public Comment**

313 There was no public comment.

314 **Board of Selectboard and Staff/Board Members Update**

315 Mr. Morin said the Selectboard had a 2-2 tie for Article 20 discussion. (Note: Article 20
316 rescinded the 12-7-2020 minimum standards for town roads at the 2021 Town Meeting.) Article
317 20 will be discussed at the next Selectboard meeting.

318 **Approve Minutes**

319 Minutes from 7/14/21 will be approved at a future meeting.

320 **Adjourn**

321 **Mr. Morin made a motion to adjourn at 10:24pm. Mr. Davies seconded. Unanimously**
322 **approved by a vote of 6-0.**

323

324 For the Nottingham Planning Board,
325 Lorraine Petrini,
326 Appointed Interim Scribe for the recording and documentation of meeting minutes

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