

Nottingham Planning Board Meeting

DATE: August 9, 2023

Official Minutes

Call to Order

Members Present: Eduard Viel, Chairman; Ian MacKinnon, Vice Chair; Susan Mooney, Secretary; Charlene Andersen, SRPC Representative; Robert “Buzz” Davies, Alternate.

Members Absent: John Morin, Select Board Ex-Officio Representative; Teresa Bascom, Member.

Alternate Seated and Voting: Mr. Davies was seated and voting for Mrs. Bascom.

Others Present: Alana Kenney, Land Use Clerk; Monica Rogier, Applicant; Stephanie LaFlamme, Applicant; Laura Horning, Property owner; William Whitney, Abutter; Stephen Reynolds, Applicant; Susan D. Johnston, Applicant; Krissy LaPorte, Realtor.

Call to Order

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

Public Hearings

Case # 23-007 DR Falzone – Raymond Rd: Application from Joseph Falzone requesting a Design Review hearing for a 20-lot proposed open-space subdivision on Raymond Rd. This property is identified as Tax Map # 69, Lot # 17.

Mr. Viel reported that the applicant has requested that this case be continued to the September 13, 2023 meeting. This would be to allow for the Board to seek guidance from legal counsel regarding the fifty (50)-foot access that the applicant had proposed for the roadway. The Board has reached out to Town Counsel for input.

Ms. Andersen made the motion to continue Case # 23-007 DR Falzone – Raymond Rd to September 13, 2023 at 7:00PM. The motion was seconded by Ms. Mooney. The motion was unanimously approved by a vote of 5-0-0.

Case # 23-008 SIT Claar – 55 McCrillis Rd: Application from R. Gregory Claar for a Site Plan Review to run a small, wood processing business on the property, which currently does not have a dwelling on it. The proposed use will include storing wood, which has been cut and transported from outside sources to be sold and transported by a small pick-up / dump truck. It

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would also serve as a storage space for vehicles and equipment used in the paving business. This property is located at 55 McCrillis Rd. in Nottingham, NH, and is identified as Tax Map # 39, Lot # 13-8.

Mr. Viel reported that this applicant has also requested that the case be continued to the September 13, 2023 meeting.

Ms. Mooney made the motion to continue Case # 23-008 SIT Claar – 55 McCrillis Rd to September 13, 2023 at 7:00PM. The motion was seconded by Ms. Andersen. The motion was unanimously approved by a vote of 5-0-0.

Other

Conceptual # 23-002 Reynolds - 7 Berry Rd

Stephen Reynolds of Rochester, NH came forward and introduced himself as the applicant. He is the owner of 7 Berry Road in Nottingham, a four (4)-unit, multi-family property that he purchased just over a year ago. It is his understanding that this property has a long history of prior landlords expanding the property without using the right methods. This has given the property a reputation that he would like to change. Mr. Reynolds' goal is to clean up the property to improve the curbside appearance, improve the building and thus would make the property more attractive to potential tenants. He is before the Board today to discuss improvement to the exterior of the property. His plans include removing some old stumps, backfill them, and add a fresh layer of gravel over the parking area. No additional parking is planned but rather move the existing parking further into the property away from the streets as well as organize the cars in a more desirable manner for emergency vehicle access, plowing, and for general overall appeal. In revising the parking area, there is no intention to add additional units or tenants, only rebuild the existing lot to accommodate the current vehicles and improve the appearance. There will not be any expansion of the parking area for additional vehicles. Mr. Reynolds asked what permits or variances will be required to remove stumps on the property and repair the existing parking lot. He also asked what other details that he has overlooked that could place him in a non-conforming situation.

Mr. Viel forwarded a point made by Blair Haney of the Strafford Regional Planning Commission, who was unable to attend tonight's meeting: be careful when using the term "fire lane access", which has specific requirements.

Mr. Viel read the following letter from abutter Dirk Grotenhuis of 3 Poor Farm Road into the record:

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“Based on the Planning Board Meeting Agenda for 8/9/2023 there is an application for a conceptual site plan review that I would like to provide input on. I am a direct abutter to this property. The property is a non-conforming multi-family dwelling with up to 13 separate leased spaces in 4 units. There is a long history of violations and non-compliance and is documented in the Town's files. In 2005 the ZBA approved a variance to Article 6G Section 3B to allow a 4-unit multi-family dwelling in the residential zone. A condition of that variance was to submit a site plan application for approval by the Planning Board. That condition was never met and no site plan has been submitted since then. The Town Code Enforcement office did not follow up on the conditional approval at that time. Recently in 2021, the owner at the time made alterations to the property including moving a shed within the 100' Landscape Buffer and expanding the parking lot with gravel. I filed a complaint dated May 25, 2021 (attached) and it goes into some of the details of the violations. The Town Code Enforcement office issued an Administrative Decision and stated that "any future expansion will require a site plan". The Town did not respond to the parking lot expansion. The ZBA denied a variance request to keep the shed within the 100' Landscape Buffer and the owner was required to move it back to its original position. The conceptual diagrams shown by the applicant before you now are inaccurate, not to scale, and do not depict the existing conditions. The parking expansion being shown is within the 100' Landscape Buffer and within wetland setbacks. The 6-acre site is already over occupied with the number of separate tenants and their cars which they are parking all over the site. The diagrams are counting existing spaces that are not there, these are on the front lawn and in the roadway. The proposed parking diagram adds spaces for a total of 20 future spaces. This is excessive for a 4-unit multi-family dwelling which the Town has not monitored or enforced for years. I ask the Planning Board to inform the applicant that a full site plan application would be required depicting all the existing conditions, property lines, setbacks, proposed conditions, occupancy, septic, wells, etc. And that they will need to provide justification for any of the modifications they are proposing.”

Mr. Reynolds cited a *Notice of Administrative Decision* dated October 19, 2021 in which the Town's Code Enforcement Officer, Dale Sylvia, dismissed *Complaint 2* (regarding solid waste removal), *Complaint 3* (regarding unpermitted tree removal), *Complaint 4* (regarding overpopulation and parking), and *Complaint 6* (regarding the covered bridge not being used as approved) because they were not violations. The *Decision* addressed *Complaint 5* (regarding the shed not being in setbacks). Mr. Reynolds has since removed this shed. The *Decision* addressed *Complaint 1* (regarding overuse of the septic system) and required that the property owner get approval from the State for use of the system with thirteen (13) approved bedrooms.

Mr. Reynolds asked what determined how the previous lot was described and what makes it considered as ‘expanded’. He reported that the tenants have been parking that way for “decades”. He was under the impression when he bought the property that that was the established parking lot.

Mr. Viel asked if Mr. Reynolds knew whether or not the State had been contacted regarding the septic system. Mr. Reynolds was not sure whether or not it had. Mr. Viel advised that the septic approval status would go back to the Code Enforcement Office rather than to the Planning Board. Mr. MacKinnon added that if the Board decides that there is no requirement for a site

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plan, Mr. Reynolds would need to go through the State permitting process and have the proper professionals evaluate and, if needed, re-design the septic system. Mr. Reynolds stated that he would look into the septic system.

Mr. Davies asked Mr. Reynolds what the date on the letter he was reading from was. Mr. Reynolds responded that the letter was from the Board of Selectmen dated June 8, 2022. He agreed to provide a copy to the Board.

Mr. Viel noted that the Planning Board is not an enforcement board. He noted that the *Decision* from October of 2021 stated that a site plan would be required for any future expansion of the parking lot. Because Mr. Reynolds is not proposing to expand the parking lot a site plan is not required. As far as things to be aware of, he would benefit from returning to the Code Enforcement Office. Mr. Viel stated that it is always good to make something that was non-conforming more conforming. It would be appropriate to have a site plan on file to compare against in the future, but it is not required.

Mr. Reynolds asked if he were to submit a site plan whether or not the Board would approve it in its current state. Mr. MacKinnon advised that the property would be considered “pre-existing, non-conforming”.

Mr. Viel asked if Mr. Reynolds had an opportunity to speak with Dale Sylvia regarding this. Mr. Reynolds reported that he had spoken with him at length and that Mr. Sylvia had advised that Mr. Reynolds come before the Board to get their opinion. Mr. Reynolds reiterated that he is not seeking to expand the parking area but rather clean up the existing parking area.

Mr. Viel advised Mr. Reynolds to be mindful of setbacks to the roadway and to any surrounding wetlands. Mr. Reynolds asked if he would be able to repair an existing driveway. Mr. Viel stated that if it is there currently he would probably be able to but would need to check with the Code Enforcement Office.

Mr. MacKinnon asked why the covered bridge is there. Mr. Reynolds replied that there is runoff that travels underneath it.

Mr. MacKinnon expressed concern regarding the outlined muddy area on Mr. Reynolds’s map of the parking area. Mr. Reynolds stated that it is not a wetland and that it is muddy because of the rainy season. He added that it is existing parking space but the tenants prefer to park in the grass or on the pavement. Mr. MacKinnon suggested that Mr. Reynolds look at the numbers and consider developing a site plan “to protect himself down the road”. Mr. Reynolds asked if it would be possible for his site plan to be denied. Mr. MacKinnon suggested that that could be a possibility and would mean that nothing could be changed.

Mr. Viel suggested that Mr. Reynolds get in touch with Blair Haney of SRPC who may be able to provide guidance.

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Ms. Andersen inquired about the drawing provided and asked if a new driveway entrance was being proposed. Mr. Reynolds replied that that is the current driveway.

Mr. Viel asked what the distance is between the current parking area and the surrounding property lines. Mr. Reynolds reported that on the westerly side, from the bridge to the lot line is about one hundred (100) feet. On the other side, the lot is about thirty-five (35) feet from the building, which is about another thirty (30) feet from the lot line. He estimated about sixty (60) to seventy (70) feet in total.

Mr. Viel stated that as presented there is nothing at this time that triggers the Board to require a site plan. Mr. Reynolds asked what kind of permit or application would he submit in order to bring gravel in. Mr. Viel replied that he did not think that Mr. Reynolds would need one but deferred back to the Code Enforcement Officer. He further noted that addressing the septic system issue may be of greater concern, as it had a time frame that has since lapsed. Mr. MacKinnon noted that there are plenty of firms and individuals who can do septic designs. Mr. Reynolds reported that he has records that indicate that State approval was obtained via a letter dated February 10, 2022. He agreed to provide a copy of this to the Board. Mr. MacKinnon suggested that he follow up and ensure that is accurate and up to date.

Ms. Mooney suggested that Mr. Reynolds move some of the proposed parking spaces to the rear of the building so as to make the property appear more rural. Mr. Reynolds reported that he would walk the property and see where he could place some spots. Mr. MacKinnon noted that he would just have to be mindful of the septic system.

Mr. Reynolds thanked the Board for the information.

Conceptual # 23-003 Rogier LaFlamme - 106 Church St

Monica Rogier and Stephanie LaFlamme came forward and introduced themselves as the applicants as well as the joint owners of Nature's Place Early Learning Center, currently located at 106 Church Street or otherwise known as the Nottingham Community Church. They have been the owners and operators of the Center since December of 2020. Initially nineteen (19) children have grown to more than 30 enrolled students, seven (7) staff, a waitlist of more than 45 children almost two (2) years long at times, and a limited space so the program is unable to expand. 186 Old Turnpike Road, or the former Daniels Hall, is a 3,600 square foot building on a lot that abuts Route 4, a high traffic area. They are currently under agreement to purchase this property and are hopeful to be able to move into the space by the end of the year. This new space would allow them to double their current capacity. The building is currently vacant but has undergone many renovations for its use as a bar and grill. The tax record identifies the space as a function hall. Ms. Rogier and Ms. LaFlamme are before the Board to find out if it would be possible to change the use from a function hall to a childcare space. The building will need many renovations including new ceilings, walls, HVAC systems, monitored fire alarms, lighting, ramps, and other items. They recognize that these items include signage, the driveway and apron, and water filtration systems. They have a contractor who will be able to attend to these things.

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210 There is an increasing demand for childcare in the community and they hope to address this by
211 expanding their program with a larger facility.

212
213 Ms. Kenney noted that the wrong address (106 Church Street) is indicated on the agenda, when it
214 should actually be identified as 186 Old Turnpike Road.

215
216 Mr. MacKinnon expressed his support for the applicants' efforts to expand childcare in the
217 community. He noted that the previous site plan for this property, one that was submitted for the
218 hall to be converted to a restaurant, has expired. He stated that this would constitute a change-of-
219 use and located in the commercial zone so it would require a site plan. He noted that they would
220 likely need to reach out to the New Hampshire Department of Transportation (NHDOT) for a
221 driveway permit because of the location. He also recommended that the applicants ensure that
222 they have a legal right to access the property through the adjacent parcel. Ms. Rogier stated that
223 according to the deed there is a shared driveway.

224
225 Mr. Viel recommended that the applicants review the previous site plan application and
226 determine what waivers were requested. He noted that the organization appears to be within the
227 realm of what the commercial district outlines. He seconded Mr. MacKinnon's recommendation
228 that the applicants get in touch with NHDOT. He further advised that on a site plan application
229 the Board normally asks for information such as hours of operation and number of occupants. He
230 directed that the Building Inspector/Code Enforcement Officer, Fire Chief, and Police Chief be
231 asked to comment on the application. He recommended that they have a plan to limit the chance
232 of cars lining up and creating a queue on Route 4 and asked if the driveway is wide enough for
233 two cars to pass each other. Ms. Rogier stated that she thinks it is. Mr. Viel added that the
234 applicants address items such as septic, lighting, and parking.

235
236 Ms. Mooney inquired as to what age groups the Center will attend. Ms. Rogier reported that they
237 would accept infants through children just before the age of entering kindergarten. Ms. Mooney
238 noted that the sound of traffic in that area is very loud and recommended that they install sound
239 barriers to protect the children's ears.

240
241 Mr. MacKinnon recommended that the applicants start the permitting process with NHDOT
242 prior to submitting a formal site plan application as the NHDOT can take longer.

243
244 Mr. Viel noted that the applicants may also be asked to look at storm water management on the
245 property if they wanted to expand the parking lot.

246
247 Ms. Rogier asked what, aside from working on the site plan application, their next steps should
248 be. Mr. Viel advised that they need to get in contact with the State and start the permitting
249 process on the State level. He further recommended they talk to the Building Inspector and Fire
250 Chief to determine what the building needs for upgrades or renovations. He advised that they
251 also contact Mr. Haney for guidance.

252
253 Ms. Mooney advised that they could also reach out to Ms. Kenney with questions.
254

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Ms. Rogier and Ms. LaFlamme thanked the Board for their input.

Conceptual # 23-004 Johnston - 39 Mooer's Rd

Susan D. Johnston came forward and introduced herself as the applicant. She provided property tax maps to the Board. She reported that her property was originally purchased in 1938 as four (4) separate lots, three (3) of which face the waterfront with a total lake frontage of 325 feet and one (1) behind those three (3) in the back. She reports that these lots were merged at some point, unbeknownst to her. She would like to sell the land of the far-right lot as a house lot with 106 feet of frontage. Her question for the Board is whether or not she can un-merge these lots in order to do this. If not, should she keep the lots as one (1) and have a land adjustment.

Mr. Viel advised that there is a state law and an application with the town in which Ms. Johnston could request to un-merge involuntarily merged lots. This application would go to the Select Board for approval. This wouldn't automatically mean that they would become buildable lots but would open them back up to allow Ms. Johnston to sell them. She would still need to do a lot line adjustment as well.

Mr. MacKinnon expressed concern regarding whether not these lots would be buildable once they were un-merged. Ms. Andersen noted that these would be non-conforming lots. Mr. Viel advised that Ms. Johnston would likely run into issues regarding what she could and could not do with the lots at that point. In order to make them more appealing to a buyer, she may need to consider a lot line adjustment to create road frontage.

Ms. Johnston asked if she would be able to apply for a variance. Mr. Viel replied that she would be able to do that through the Zoning Board.

Mr. MacKinnon advised that because Mooers Road is now a Town road, property owners are required to have frontage on the road. He recommended that Ms. Johnston absorb the rear parcel by the road into the two lower lots that have lake frontage but no road frontage. He advised that there are a few aspects of this case that may require a variance in order to accomplish what Ms. Johnston would like to do.

Ms. Johnston asked if she would be better off requesting to un-merge the lots and then do a lot line adjustment rather than do a lot line adjustment for the one parcel as it currently sits. Mr. Viel advised that if she were to do a lot line adjustment of the one parcel it would be considered a subdivision by the Planning and Zoning Boards.

Ms. Johnston asked what her next step would be if she is granted the un-merging by the Select Board. Mr. Viel advised that her next step would depend on what she wants to do. One option would be to do a lot line adjustment reducing the potential four (4) lots to three (3). This would create road frontage for the lots with lake frontage so that she could sell them. These lots would still require a variance to build on as they do not have the required frontage but it would allow potential buyers to position themselves one step closer.

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Mr. MacKinnon stated that there is an application on the Planning Board website for a Voluntary Lot Merger, which is similar to a lot line adjustment and may alleviate the need for a lot line adjustment.

Ms. Johnston thanked the Board for the guidance and information.

Public Comment

None.

Approval of Minutes

Ms. Andersen made the motion to approve the July 12, 2023 and July 26, 2023 minutes as amended. The motion was seconded by Mr. Davies. The motion was unanimously approved by a vote of 5-0-0.

Select Board and Staff / Board Member Updates

Mr. Davies had no update.

Mr. MacKinnon had no update.

Mr. Viel reported that he will no longer be in town for the August 23, 2023 joint meeting of the Planning and Zoning Boards. Mr. MacKinnon has indicated that he has a work commitment that evening. Ms. Andersen has indicated that she will also not be available that evening. He advised that the meeting could still be held if someone else was willing to Chair the meeting but proposed that it be rescheduled to either August 30, 2023 or to sometime in September. There was discussion about a new date for the joint meeting and it was decided that the Board would propose a new date of August 30, 2023 to the Zoning Board, Conservation Commission, Town Administrator, Lamprey River Advisory Committee, and Town departments.

Mr. MacKinnon made the motion to reschedule the planned August 23, 2023 joint meeting to August 30, 2023 at 7:00PM. The motion was seconded by Ms. Mooney. The motion was unanimously approved by a vote of 5-0-0.

Mr. Viel reminded the Board that, per their *By-Laws*, a quorum is at least four (4) members.

Mr. Viel advised that he would along an email that Mr. Haney had sent out regarding a training hosted by New Hampshire Office of Planning and Development (NH OPD) on Thursday, August 17, 2023 at 12:00PM discussing zoning and amendment processes.

Mr. Viel reported that he noticed online that the Town now has a Storm Water Asset Management Report which includes mapping of all the culverts in town.

Ms. Mooney had no update.

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345
346 Ms. Andersen had no update.

347
348 **Adjourn**

349
350 *Ms. Mooney made the motion to adjourn. The motion was seconded by Mr. MacKinnon. The*
351 *motion was unanimously approved by a vote of 5-0-0.*

352
353 The meeting was adjourned at 8:32PM.

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355
356
357
358
359 Respectfully submitted,
360 Rachel Russell Leed, Transcriber