

Nottingham Planning Board Meeting

DATE: October 26, 2022

Approved December 14, 2022

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; Charlene Andersen, SRPC Representative; Sherry Sandler, Member; Robert “Buzz” Davies, Alternate; Sandra Jones, Alternate.

Members Absent: None.

Alternate Seated and Voting: None.

Others Present: Kevin Lemieux, Land Use Clerk; Blair Haney, SRPC Planner; Diane Lapite, Abutter; Mike Hyer, Abutter; Lauren Chase-Rowell, Abutter; Peter Rowell, Abutter; Barry Gier, Jones & Beach Engineering; Joseph Falzone, Applicant; Anthony Comeau, Applicant; Heather Iworsky, Abutter; Samuel Demeritt, Nottingham Conservation Commission Chair; Chris Doyle, Abutter; Steve Mathes, Abutter; James Long, Wetland Scientist; Denyse Shanahan, Neighbor; Vicki Connors, Neighbor; Nancy Botte, Neighbor; Teresa Daniel, Neighbor; Robert Daniel, Neighbor; Craig Porter, Neighbor.

Call to Order

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

Roll Call

Roll call was completed.

Public Hearings

Case #22-009-SUB (continued): Application from Robin Comeau requesting a two (2) lot subdivision. The property is located at 176 Stevens Hill Road, in Nottingham, NH, and is identified as Tax Map 49, Lot 4. Stevens Hill Road is designated as a scenic road. The applicant has filed a Conditional Use Permit.

Anthony Comeau came forward and introduced himself on behalf of Robin Comeau. Mr. Comeau stated that the applicant has withdrawn both the after-the-fact permit and the Conditional Use Permit (CUP). He advised that they will begin the restoration process with NH DES and relocate the proposed driveway to go around the affected area.

Mr. Viel reviewed a letter from Jeremy Eggleton, Lawyer with Orr & Reno, discussing the wetlands violation and the ongoing process with the New Hampshire Department of Environmental Services (DES). He read as follows: “The trust is in the process of addressing the violation with DES and it will either be approved post-hoc through an after-the-fact dredge-and-

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fill permit or remediated to the satisfaction of DES, regardless of whether or how the lot is subdivided or who owns it. Therefore, the existence of the violation, pending remediation process, is not a factor in your determination about whether the proposed subdivision meets the requirements of the *Town of Nottingham Subdivision Regulations*.”

Mr. Viel asked Mr. Comeau for an overview of the revised plans. Mr. Comeau stated that the only revision is to the five (5) acre lot, with plans now showing the new driveway going around the wetland area completely. He noted that the applicant will need a new driveway permit as well. Mr. Viel asked for verification that the proposed plans align with what the Board had recommended at a prior meeting; Mr. Comeau confirmed that the proposed plans follow the Board’s recommendations. Mr. Comeau stated that no other changes were made to the plans.

Mr. Viel noted to the Board that, regarding the legal opinion that had been previously read, a Conditional Use Permit would be required if the applicant chose to pursue the remediation of the wetlands violation by means of the dredge-and-fill permit. Mr. Viel asked Mr. Comeau to clarify that the applicant would be pulling the Conditional Use Permit but also completing the remediation, as the guidance from the legal opinion differs from what steps the applicant plans to take. Mr. Comeau confirmed that the Conditional Use Permit has been withdrawn and that the applicant plans to remediate the violation with DES, therefore a CUP is not necessary at this time.

Mr. Viel noted that the proposed driveway indicates that it would meet the town grade requirements, so no waiver would be required.

Mr. MacKinnon read the following comments from Shawn McLean, Director of Public Works:

- The telephone pole by the entrance of the new driveway location should be moved to the edge of the new proposed right-of-way.
- The driveway entrance should be set back to the new right-of-way with drainage swales installed with a culvert.

Mr. Viel opened the public hearing.

Peter Rowell came forward and introduced himself as an abutter to the property and resident of 156 Stevens Hill Road. Mr. Rowell began by stating that it is difficult to keep up with what is being discussed when he, as a member of the public in attendance at the meeting, does not have a physical plan to be able to look at. He inquired as to whether or not something could be

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displayed on the easel. Mr. Lemieux noted that the plans for this particular project have been on the Nottingham town website since August. Mr. Rowell inquired as to whether or not the Board votes to accept the withdrawn Conditional Use Permit. Mr. Viel responded that the Board does not act on a withdrawn permit. He advised that, if the applicant were to request a new Conditional Use Permit, it would change the application, and thus would require abutter notice again. Mr. Rowell stated that the subdivision should be approved as-is with some conditions. One condition being that the driveway runs along the northern boundary line, as is proposed with the latest plan set. A second condition being that the other driveway should not be shown on the plan because it's not going to be there. A third condition being that there should be a note on the plan saying that the wetlands violation is going to be removed. Mr. Rowell noted that the road is extremely narrow in that area and advised that the Town should take the opportunity to widen it. He noted that the telephone pole in question appears to be in the middle of the right-of-way at this time, and that it may need to be moved when the underground utilities go in.

Lauren Chase-Rowell came forward and introduced herself as Mr. Rowell's wife and also a resident of 156 Stevens Hill Road. She inquired as to whether or not it is "legit" for the applicant to use a plan from August or if there should be an updated plan set with all of the current information on it. Mr. Viel responded that, as long as the majority of the information is there, it's accurate to what the final version will look like, and the conditions of approval (if any) are clear, the Board will accept the original plan set. He also noted that, generally, smaller subdivisions have less strict requirements in some areas than larger subdivisions do. Ms. Chase-Rowell asked for clarification regarding the applicant's appeal with DES and the conditions of approval for the proposed project. Mr. Viel advised that there are two separate processes; state laws allow Planning and Zoning Boards to be more stringent in some areas than the state would be so that municipal boards are not overriding the state's process while still adhering to local-level processes. In this case, with wetlands, the local process is stricter than the state process. There are times in which an applicant can get a Conditional Use Permit from a planning board and get denied from DES, or vice versa. Ms. Chase-Rowell asked how the mediation report between the applicant and DES would affect the Planning Board's decisions. Mr. Viel responded that this would be something that the Board would need to discuss, should this project move towards approval, as remediation can be a years-long process. Ms. Chase-Rowell inquired as to how she, as an abutter, would know from the remediation process that her land would not be affected. She asked if the old driveway would stay or be removed. Mr. Viel responded that the Board would need to seek clarification from DES so that the wording of the remediation reflects clear expectations. Ms. Chase-Rowell inquired as to what the Town of Nottingham has in place to ensure that the remediation does take place. Mr. Viel responded that the Board would need to discuss this matter prior to granting approval. He noted that the Planning Board is not responsible for enforcing, and that enforcing would fall to Code Enforcement and the Select Board.

Mr. Viel closed the public hearing. He invited discussion from the Board.

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119 Mr. Viel asked that the final plan set include clarification of wording on the existing driveway so
120 as not to construe that the Board is approving it as it stands if the plans were to be approved. A
121 note should be added to convey that the existing driveway shall be abandoned.

122

123 Mr. MacKinnon offered the following as potential conditions of approval, pending discussion
124 from the Board:

- 125 • Standard conditions (staff reviews, fees, plan copies, stamps, monuments, etc.)
- 126 • Wetland restoration must be completed per NH DES approved plan.
- 127 • Coordinate driveway permit with Director of Public Works to incorporate his comments
- 128 from 10/11/2022 regarding movement of a utility pole and roadside ditches and culvert.
- 129 • Existing unpermitted driveway to be abandoned.
- 130 • Proposed driveway to run along the northern lot line of the new Lot 4-1.
- 131 • Remove the double lines labeled/shown as existing driveway.
- 132 • Outline, hatch, and label the wetland impact and restoration area.
- 133 • Add a note that the wetland restoration will be completed by a reasonable date (to be
- 134 decided by the Board).
- 135 • A description of the road easement that is being provided to the Town must also be
- 136 provided to the Select Board.

137

138 Mr. MacKinnon recommended setting July 1, 2023 as the date by which the wetland restoration
139 is completed.

140

141 Ms. Andersen recommended specifying that restoration completeness as well as the obtaining of
142 a certificate of occupancy are additional conditions of approval.

143

144 Ms. Mooney asked for clarification regarding a plan, dated 05/11/2022, that shows the wetland
145 as a poorly drained wetland to the east. She noted that this is the same configuration that is
146 shown on the new plans received tonight, however, there is no indication of a setback from the
147 wetland. She asked if the delineation includes the buffer or if the buffer is extended beyond the
148 delineation of the wetland. If so, she continued, how far does that buffer extend to where the new
149 driveway is proposed? Mr. Comeau stated that he would pass the question along to his surveyor
150 and wetland scientist so that the answer could be included in the final plan. Ms. Mooney advised
151 that Mr. Comeau should also ask his wetland scientist about the productivity (assessment of high
152 to low functioning status) of the wetland.

153

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Mr. MacKinnon inquired about a setback for a driveway as opposed to a structure. After looking at the Town's subdivision regulations, it was determined that a driveway is not considered a structure and therefore does not require a setback.

Mr. MacKinnon made the motion to approve Case # 22-009-SUB with the following conditions:

- *Standard conditions as labeled in the Staff Report (fees, plan copies, necessary stamps and signatures, etc.)*
- *The wetland restoration must be completed per the NH DES approved restoration plan dated January 22, 2021.*
- *Outline, hatch, and label the wetland impact and restoration area, adding a plan note stating that the wetland restoration will be completed by July 1, 2023 and prior to certificate of occupancy.*
- *Coordinate driveway permit with the Director of Public Works to incorporate the October 11, 2022 comments.*
- *The existing unpermitted driveway is to be abandoned. The proposed driveway with this new lot will run along the northern lot line of the new Lot 4-1.*
- *The double lines labeled and shown as the existing driveway be removed.*
- *A description of the road easement be provided to the Board of Selectmen for acceptance.*
- *Note that this approval pertains to a subdivision plan with an original date of May 11, 2022 and a revision date of August 9, 2022.*
- *All conditions of approval must be completed by July 1, 2023.*

The motion was seconded by Mr. Anderson. The motion was unanimously approved by a vote of 7-0-0.

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. Viel advised that the Conditional Use Permit was not filed in time to get notices out to abutters prior to tonight's meeting.

Mr. MacKinnon recused himself from this case. Mr. Davies will be seated and voting for Mr. MacKinnon.

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Barry Gier of Jones & Beach Engineering came forward and introduced himself on behalf of the applicant. He recalled that, at their last meeting with the Board, the Board had requested the following: draining calculations, review of the stream ordinance to locate the proposed driveways on Jampsa Trail, and to provide the documents for protecting the open space. Mr. Gier gave the following updates:

- The drainage calculations have been provided with the resubmittal package. These calculations show a need to upgrade two of the existing culverts under Mooers Road. The updated plans show the replacement of the existing 24-inch culvert with the dual two (2) by two (2) foot box culvert and replacement of the existing eight (8) inch culvert with the twelve (12) inch culvert.
- Rain gardens have been added to Lots 1-5 and Lot 10.
- Lot 9 has been revised to be located further from the abutting lot.
- The project has been reviewed per the street protection overlay. The existing stream is classified as intermittent and therefore does not qualify under town subdivision regulations. The stream is still protected because it is in the wetland setback.
- The wetland setbacks have been updated as required and these are shown on the resubmitted plan. Open space calculations have been reviewed and updated as required and stated that they have sufficient buildable area as required.
- Jones & Beach are scheduled to be in front of the Raymond Planning Board on November 3, 2022 and they should have more information after that meeting regarding the access on Mooers Road and Jampsa Trail.
- Jones & Beach attended the Nottingham Conservation Commission (NCC) meeting on October 17, 2022 and that they have incorporated the NCC's comments into the plans.
- Three Conditional Use Permits have been submitted to the Board: one, for the removal of the 100-foot landscape buffer that is required for the open space subdivision; two, for the wetland impact associated with the culvert replacement; and third, to allow lots larger than allowed in the open space subdivision.
- A waiver to Article 11 Section 8 to allow rear property corners to be marked with iron pins in lieu of the granite bounds has been submitted.
- New Hampshire Natural Heritage Bureau (NHB) review was submitted. Blanding's turtle was the only species of note
- The open space documents have been submitted under the covenants and restrictions. It is proposed that the open space be held by the homeowners. Jones & Beach is not proposing to have a homeowner's association, as the covenants and restrictions in the individual deeds does the same thing as a homeowners' association.
- Updated staff comments from SRPC were received and clarifications addressed most, if not all, of the SRPC comments.
- The Conditional Use Permits were submitted on Thursday or Friday (10-20/21-22) of last week.

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231 Mr. Viel asked Mr. Haney for his comments regarding the revised plans. In his review, Mr.
232 Haney noted the Conditional Use Permits as well as abutter notification. He noted that revised
233 Lots 8 and 9 have moved the proposed houses further from the existing home. He noted that the
234 submitted cistern plan should be reviewed by the Fire Department, but that can be done as a
235 condition of approval. He suggested that the Board may want to get more clarity regarding the
236 upcoming Raymond Planning Board meeting.

237

238 Mr. Viel asked Mr. Gier to identify who makes the decision that the stream is intermittent. Mr.
239 Gier replied that the wetland scientist, Jamie Long, makes that decision. Mr. Viel advised that he
240 had reached out to the Building Inspector to let him know that he would need to weigh in,
241 because the Water Inventory Map shows the stream as a solid line, or a first-order stream.

242

243 Mr. Viel noted that the proposed 4k areas in some of the open space lots seem to be pretty close
244 to the lot line. Mr. Gier replied that they made sure that everything is within the required ten-foot
245 setback.

246

247 Mr. Anderson inquired as to where the grating and drainage plans can be found, if available. Mr.
248 Gier pointed them out in the plans and advised that the only construction they are proposing is
249 for the cistern and the culverts. Mr. Anderson inquired as to whether or not there would be
250 impact of drainage on the roadways. Mr. Gier advised that they would be changing the culverts
251 (because they are currently undersized) and constructing rain gardens, which will allow some of
252 the runoff water from the driveways and the house to infiltrate before reaching the road.

253

254 Mr. Viel noted that on proposed Lot 8, two different buildings are noted. Mr. Gier advised that it
255 is indicative of an optional home location.

256

257 Mr. Viel stated that the Board had received feedback from legal counsel and that this feedback
258 will be shared with the applicant and their team.

259

260 Mr. Viel asked who is proposed to hold the easement. Mr. Gier replied that it would be the
261 homeowners, who will have it within their deed covenants that limits activities in the open space.

262 (ED; AT SOME POINT YOU COMMENTED THAT THE OSD SECTION IN THE ZO
263 STATES EITHER AN HOA OR THE TOWN OF NOTTINGHAM WILL MONITOR FOR
264 COMPLIANCE, NOT A COVENANT IN SEPARATE DEEDS OF EACH HOMEOWNER)

265

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266 Ms. Mooney inquired as to whether or not the public would be able to access the trails that pass
267 through Mooers Road and Jampsa Trail. Mr. Gier responded that it would be up to the individual
268 landowners (since it would become privately owned land) and how they feel about people
269 passing on their land. Ms. Mooney noted that, upon the applicant's presentation to the
270 Nottingham Conservation Commission on their October 11, 2022 meeting, the NCC had sent a
271 letter to the Board citing three items that they suggested be written into the covenants: (1.) that
272 wetland buffers are to be respected (particularly for Lots 2, 3, and 4); (2.) to provide unimpeded
273 access for wildlife along the internal wetland; and (3.) to restrict chemical use (pesticides and
274 fertilizers).

275 Mr. Gier acknowledged these items and indicated that there would be language that chemical use
276 be "reduced".

277

278 Mr. Viel reviewed the three Conditional Use Permits the applicant is applying for:

- 279 1. Wetland buffer impact of 2850 square feet for construction of a shared driveway (Lots 6
280 and 7) and culvert replacement (between Lots 7 and 8). Wetland impact of 83 square feet
281 for culvert replacement on Mooers Road. This is to address the undersized culvert.
282 2. Open space lots with areas greater than the maximum allowed of 45,000 square feet for
283 an OSD.
284 3. Elimination of the 100-foot landscape buffer, also an OSD requirement.

285

286 Mr. Viel opened the public hearing.

287

288 Craig Porter came forward and introduced himself as a resident of 18 Mooers Road and a direct
289 abutter to the property. He expressed concerns about the value of his house dropping if the
290 subdivision goes in. He expressed concerns regarding the water. (RUNOFF OR GROUND
291 WATER SUPPLIES FOR WELLS?) He stated that the driveways are going to need to be about
292 300 feet long, and that moving the proposed houses back into the woods has a greater impact on
293 the wildlife. He stated that it would be more efficient and better for the wildlife to put the
294 driveways off Jampsa Trail. Mr. Viel stated that open space subdivisions are about finding the
295 right balance.

296

297 Mike Hyer came forward and introduced himself as an abutter. He had the following comments:

- 298 • Asked if there are weight limits to the culverts that will be put in. Mr. Viel advised that
299 the town Road Agent would have the answer to that question.
300 • Asked what a rain garden is. Ms. Mooney advised that it is a pool that is constructed,
301 grassed, and in which water is directed into from an impervious surface like a roof or

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driveway. The water enters the garden at a modest flow so that it can percolate into the ground. Therefore, she advised, it does not go directly into the wetland or into the

- Asked if the homeowners would be able to build a basketball court in the open space. Mr. Lemieux replied that they would not be able to build anything in there.
- Expressed concerns about adding more cars to Mooers Road, specifically more cars on the Raymond end of the road, which is in poor condition. Mr. Viel advised that this may be brought up when the applicant attends the Raymond Planning Board meeting next week.
- Inquired as to whether or not the Lamprey River Advisory Committee (LRAC) had gotten back to the Board. Mr. Viel responded that they have not yet heard back from LRAC at this time. He continued that if the Board does get some feedback from LRAC, it will become part of the record.
- Expressed concerns on behalf of himself as well as others in the neighborhood that Mr. Morin should be recusing himself from this case, as he is a close personal friend of Mr. Rosborough. Mr. Morin responded that he does not feel as though he needs to recuse himself from these deliberations, as his relationship with Mr. Rosborough does not affect his ability to make decisions benefitting the good of the town nor does it affect his role on the Planning Board or the Select Board. Mr. Viel noted that the town's *By-Laws* recommend recusal if a Board member has a direct financial interest or is a direct abutter.

Heather Iworsky came forward and introduced herself as a resident of 104 Mountain Road. She wanted to remind everyone of the spirit of the ordinances; to maintain a natural resource, tree lined scenic roads, unfragmented forests, and protecting the environment by well-managed growth. Additional concerns, challenges, and requests were the following:

- The development is being put in in a sensitive area.
- Subsequent tax increases are forcing the elderly out of their homes.
- Road maintenance and who would be responsible for bearing the additional costs.
- She would be interested in hearing what LRAC or, perhaps, DES has to say about the proposed project.
- She challenges the plan map that asserts that the stream as intermittent.
- That the 25-foot vegetative buffer is enforced.
- A wildlife study be conducted for this parent parcel.
- She stated that she would like to see the NCC meeting minutes for the most recent meeting (10-17-22) posted online for the public to review.
- In the site plan review regulations, no mention was made about impact statements for environment, pollution control, traffic noise, drainage, etc.
- There was concern about the right rain garden being built for the right house.
- Building more wells in an area without great water reserves.

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- That the landowner considers selling the land to a conservation land trust so that it can be preserved forever.

Mr. Viel explained that cistern location is often decided between the Road Agent and the Fire Chief and that some road improvements would be at the expense of the applicant. In one of the maps mentioned, the Aquifer Protection District, shows areas in town where aquifers are located and the best location for a municipal well might be.

Mr. Viel closed the public hearing.

Mr. Viel asked Mr. Gier about the size of the proposed rain gardens. Mr. Gier replied that the plans are based on a typical house and a typical lot. The size of the house and the length of the installed driveway will determine the ultimate dimensions of the rain gardens.

Ms. Mooney suggested combining Lots 8 and 9 and building a duplex. Mr. Gier stated that the applicant is proposing eleven (11) single family lots and not a duplex. Ms. Mooney stated that there should be more consideration for the conservation values. Mr. Gier disagreed, stating that the applicant is providing more than the required open space and more than the required buildable open space. He noted that the property owner has the right to do with his lot what the regulations will allow.

Ms. Andersen noted that the Board, at a previous meeting, had talked about Environmental Impact Assessments and asked Ms. Mooney if that had been discussed at the last NCC meeting. Ms. Mooney replied that they had asked for a Natural Heritage Bureau assessment, which is the go-to agency.

Ms. Andersen inquired about doing a hydrogeological study of the area. Mr. Gier responded that the findings of such a study might differ from what the subdivision regulations say.

Mr. Haney inquired as to the reason for the larger lot sizes. Mr. Gier replied that, specifically for Lots 6, 7, 8, and 9, they are trying to get past the wetland buffer so they don't have additional impact.

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374 Ms. Sandler inquired as to whether or not Mr. Rosborough would consider selling the land to a
375 conservation land trust. Mr. Gier replied that he would likely consider it, but that he is proposing
376 a subdivision at this time.

377

378 Mr. Viel, after looking up the criteria in which the Board could request a hydrogeological study,
379 noted that the Board could request one for any project, but that one is not necessarily needed for
380 a project of this scale.

381

382 Mr. Viel stated that the plan may be one lot too many. He noted that Lots 8 and 9 seem to be of
383 greatest concern to Board members and abutters alike. He suggested that if Lots 8 and 9 be
384 eliminated, the remaining lot could be made smaller to allow more room for the open space,
385 which would be more in line with the lot sizing.

386

387 Ms. Mooney inquired if Lots 8 and 9 were made into one and shrunk down and then purchased
388 by a resident or group of residents in the area would they now, as new landowners, have access
389 to the open space. Mr. Gier verified that this would be the case.

390

391 ***Mr. Anderson made the motion to continue Case # 22-011-SUB to November 9, 2022 at***
392 ***7:00pm with deliverables due at least one week prior. The motion was seconded by Ms.***
393 ***Mooney. The motion was unanimously approved by a vote of 7-0-0.***

394

395 Mr. MacKinnon rejoined the table and resumed as Vice Chair. Mr. Davies returned to his
396 alternate, non-voting position.

397

398 ***Case # 22-014-SUB: Application from Joseph Falzone, on behalf of George Williams and***
399 ***Day Ann Kelley, requesting an eight (8) lot subdivision. The property is located on Stevens***
400 ***Hill Road, in Nottingham, NH, and is identified as Tax Map 46, Lot 7. Stevens Hill Road is a***
401 ***scenic road. The applicant is applying for a Conditional Use Permit.***

402

403 Joseph Falzone came forward on behalf of the applicant. He stated that the only driveway change
404 has been that the abutters had originally asked to get the curb cuts down to five (5), and that he
405 tried to get them down to four (4); however, Lot 1 was already reserved to a buyer who does not
406 want a shared driveway along the lot line. He stated that this was the only difference from the
407 site walk - that there are now two separate driveways for Lots 1 and 2.

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408 Lots 7 and 8 have been combined into a single lot, lot 7 is now 18 acres. Mr. Falzone reported
409 that an abutter is purchasing this new lot 7 and has no plans to develop it at this time. He has
410 proposed a deed restriction/ conservation easement that would allow for a recreational path in the
411 to-be-conserved back portion of the land.

412 Additionally, there will be a deed restriction for all seven (7) lot owners indicating a no-cut
413 buffer within 100 feet along the road per the scenic road status of Stevens Hill Road.

414

415 Mr. Viel asked Mr. Haney for his review.

416 Mr. Haney made note of the shared driveways.

417 Mr. Haney asked for clarification that 10/06/2022 is the latest plan set. Mr. Falzone confirmed
418 that this is the case. Mr. Falzone reported that this updated plan set, with the elimination of the
419 shared driveway, allows for the existing culvert to remain in place. He advised that their wetland
420 scientist determined that there is only one tree that needs to come down; an oak tree that is in
421 poor health. He reported that the building envelopes have been added to the plans. He reported
422 that they had been in contact with the Fire Chief, who instructed that all homes would require
423 sprinkler systems in lieu of a cistern.

424

425 Mr. Viel inquired as to whether or not they had recently met with the NCC. Mr. Falzone reported
426 that they did, and that the NCC issued a letter to the Board. Ms. Mooney confirmed this and
427 summarized the letter: the NCC met with the applicants on 10/17/2022 and reviewed the plans.
428 The NCC was very pleased with the applicant's attention to conservation and therefore the NCC
429 approves their application for a Conditional Use Permit.

430

431 Ms. Mooney inquired as to whether or not the culvert site is located by vernal pool #1. Mr.
432 Falzone replied that it is not, and that the vernal pool is quite a bit down the road.

433

434 Mr. Viel read aloud the application for a Conditional Use Permit: "Conditional Use Permit is
435 requested for Article 3 Section B 6 of the *Zoning Ordinance* to allow minor wetland impact for
436 proposed driveway access. A Conditional Use Permit will provide access to the parcels that are
437 the shortest distance for Fire and Emergency Response. The developers agree to a 100-foot
438 building setback from the road to maintain the existing rural feel. Ground water impact should be
439 negligible. Lighting will not be an issue."

440

441 ***Mr. MacKinnon made the motion to accept the Conditional Use Permit application for Case #***
442 ***22-014-SUB as complete with minor wetland impact. The motion was seconded by Ms.***
443 ***Mooney. The motion was unanimously approved by a vote of 7-0-0.***

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444

445 Mr. Viel opened the public hearing.

446

447 Robert Daniel came forward and introduced himself as an abutter. He inquired as to what the
448 letter from the NCC said. Ms. Mooney indicated that the letter was addressed to the Planning
449 Board and that the Board would post the latter for the public to access as part of the case
450 documents. The public can access it at that time.

451

452 Mr. Viel closed the public hearing.

453

454 Mr. Viel read aloud the following criteria for a Conditional Use Permit:

- 455 1. Permits will only be granted provided that no alternate route is feasible and all the
456 following conditions are found to exist.
- 457 2. Proposed construction is essential to the productive use of land not within a wetland
458 conservation area.
- 459 3. Area considered for development is not smaller acreage than the wetland area being
460 considered.
- 461 4. Design, construction, maintenance methods, will be such to minimize detrimental impact
462 upon the wetland and will include restoration as early and often as possible.
- 463 5. Economic advantage alone is not a reason for the proposed construction.
- 464 6. Prior to the granting of a Conditional Use Permit, under the (WHAT SECTION?) section,
465 applicant shall agree to submit paperwork documenting an approved design.

466

467 Ms. Mooney suggest that the applicant add some vegetation back so as to preserve vernal pool
468 #1. (All of the vegetative canopy surrounding vernal pool #1 had recently been removed by the
469 power company. This action will degrade the productivity value of the vernal pool in the spring
470 for amphibians.) Mr. Falzone stated that they will see what they can do.

471

472 ***Mr. MacKinnon made the motion to approve the Conditional Use Permit (Article 3 Section B6***
473 ***of the Zoning ordinances) for Case # 22-014-SUB. The motion was seconded by Ms. Mooney.***
474 ***The motion was unanimously approved by a vote of 7-0-0.***

475

476 ***Mr. MacKinnon made the motion to approve Case # 22-014-SUB with the following***
477 ***conditions:***

- 478 • ***Standard conditions (fees, plan copies, stamps, permits, etc.)***

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- *Deed restriction/conservation easement language be provided to the NCC and Planning Board legal counsel for review and comment.*
- *As shown on the plan, a note stating that each lot will have a 100-foot limited cut front bumper/building setback.*
- *Final plans to show bounds to be spaced at 300 feet or less apart.*

. The motion was seconded by Mr. Anderson. The vote was unanimously approved by a vote of 7-0-0.

Other

None.

Public Comment

None.

Approval of Minutes

Ms. Mooney made the motion to accept the minutes from the October 1, 2022 site walk. The motion was seconded by Mr. Anderson. The motion was approved by a vote of 6-0-1.

Select Board and Staff / Board Member Updates

Ms. Jones had no comment.

Mr. Davies had no comment.

Mr. Anderson said that he had a discussion with the Interim Town Administrator regarding Nottingham becoming a member of SRPC. This will be something that the Budget Committee discusses at an upcoming meeting. Mr. Anderson also passed out copies of the town's ten-year plan for review.

Mr. Morin indicated that the Select Board has been very busy in the process of hiring a new Town Administrator. He noted that Budget season is coming up. Not much has been added to the budget at this point but it is looking like there would be a number of items that will be cut due to the new 4% limit for increased tax revenue. He encouraged Planning Board members to come to Budget Committee meetings and express their questions, comments, and concerns.

Mr. Viel advised that he plans to be at the upcoming Select Board meeting to discuss the Planning Board budget. He further advised that the Board should be mindful of when they should craft warrant articles.

Mr. MacKinnon inquired as to who is going to monitor Mr. Lemieux's phone and email after his last day. Mr. Lemieux said that Kelly Dallaire, Administrative Secretary, would likely be taking

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Approved December 14, 2022

523 over some of his duties in creating schedules and sending out notices. He suggested that the
524 Board may have to help each other out with things like reaching out to LRAC and the like to
525 distribute the workload.

526

527 Ms. Mooney had no comment.

528

529 Ms. Sandler had no comment.

530

531 Ms. Andersen had no comment.

532

533 Mr. Haney advised that he would be sending around a memo in regard to Zoning amendments
534 and asked fellow members to take a look at it.

535

536 **Adjourn**

537

538 *Mr. Viel made the motion to adjourn.*

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540 **The meeting was adjourned at 10:15PM.**

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545

546 Respectfully submitted,

547 Rachel Dallaire