

Nottingham Planning Board Meeting

DATE: November 10, 2021

Official Minutes

**Call to Order**

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

**Members Absent:** Chair Dirk Grotenhuis;

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

**Others:** Kevin Lemieux, Land Use Clerk; Jen Czysz, SRPC Planner; Martha Chase, Abutter; Kyle Allison, Abutter; Rich Cote, Applicant; Mary Ellen Cote, Applicant; Wayne Morrill, Jones & Beach Engineers; Scott Frankiewicz, NHLC; Paul Dobberstein, Ambit Engineering; Mary Crockett; Larry Woodman, Applicant; Gretchen Woodman, Applicant; Todd Vachon, Abutter; Scott Gibb; Emma Gonya, Abutter; Zach Gonya, Abutter; Malcolm Estell; Gary Dyjak, Abutter; Wendy Dyjak, Abutter; Katherine Winans; Jonathan Collette; Allen Zipke, Resident; David Scholtz; Mark Crockett, Resident; Jessica Morey; Jeff Gallant, Resident; Warren Estes, Applicant; Jim Rosborough, Applicant; Linda Rosborough, Applicant

**Call to Order**

The meeting was called to order at 7PM.

**Roll call**

Roll call was completed.

Vice Chair Mr. Viel served as Chair in Mr. Grotenhuis’ absence.

Mr. Viel began the meeting by reading a request from the Owl Ridge Builder’s representative to postpone the scheduled Design Review until the December 8<sup>th</sup> meeting due to a conflict in scheduling.

*Ms. Mooney made a motion to continue the Design Review for Owl Ridge Builders until December 8, at 7:00 PM. The motion was seconded by Mr. Anderson. The motion was approved unanimously 7-0.*

The Board decided to move the conceptual review for Mooers Road as the first case. Mr. Viel explained that a conceptual review is a non-binding conversation about the applicant’s planned project.

Mr. MacKinnon recused himself from the discussion due to his employment with the applicant’s design firm, Jones & Beach Engineers.

Wayne Morrill from Jones & Beach Engineers introduced himself as the applicant’s representative. The land for the proposed subdivision is a 56-acre lot with two road accesses. He

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37 said the two roads are Jamps Trail, which has been accepted as a town road and Mooers Road,  
38 which was conditionally accepted but needed to be brought up to the town's standards, however,  
39 those standards no longer apply. The applicant has been meeting with the Town Selectmen and  
40 the Public Works Department to determine what would be acceptable for that roadway. He said  
41 that the property is located in the residential/ agricultural zone. Mr. Merrill indicated that the  
42 plan shows 11 lots for the subdivision. He stated that each lot has at least 200 feet of frontage,  
43 two acres of land and 30,000 square feet of contiguous area and furthermore, that the concept is  
44 to move away from a conventional subdivision and for an open space subdivision. The open  
45 space subdivision plan would place 39 of the 56 acres into open space and of these 39 acres more  
46 than 50 percent would be suitable for building and would be 60 percent contiguous.  
47 Furthermore, Mr. Merrill said that the property would contain 10.75 acres of wetlands. He stated  
48 that this plan is not observing the 100-foot buffers and that this proposal would bring Mooers  
49 Road up to town standards with no access to Jamps Trail.

50 Ms. Mooney asked what was on the other side of Jamps Trail. Mr. Morrill said that there are  
51 house lots that use Jamps Trail, however, he did not know how many were there. He said that  
52 he knows the road is in tough shape. Ms. Mooney asked if the drainage flows down toward the  
53 lake. Mr. Morrill says he believes that it does drain towards the lake.

54 Mr. Viel brought up that the setbacks from wetlands and a possible stream would need to be  
55 considered when actual plans are drawn up. He also stated that the proposed property abuts the  
56 town of Raymond and that notification and approval would be needed from Raymond as well.  
57 Ms. Czysz noted that if the only access is through Raymond, then the applicant would need  
58 approval from that town's planning board as well.

59 Mr. Morin suggested that the proposed plan might drop Lot 11 as the plan would need to meet  
60 the town's subdivision requirements regarding road width. He said that the current plan would be  
61 difficult to pass the subdivision regulations due to Lot 11.

62 Ms. Andersen asked Mr. Morrill why he said that Mooers Road was "conditionally approved".  
63 The Board discussed back and forth when this conditional approval may have happened. Mr.  
64 Morin explained that a few years ago, the road was not considered up to the town's standards,  
65 however, no clear standards for these types of roads was ever created.

66 Ms. Andersen asked if there was any consideration for Workforce Housing: Mr. Morrill replied  
67 that, at this point, it is only an open space subdivision plan.

68 Ms. Czysz stated that consideration on the yield plan for Lot 8 through 10 will need to meet  
69 Section 14.2.2 of the Subdivision Regulations. She said that this section addresses the width,  
70 length, and the narrowest point of each lot. She also said that the subdivision road standards were  
71 in Section 15 for reference.

72 Mr. Viel said that the applicant should be prepared for questions from the abutters regarding  
73 access to the lake. Mr. Morrill said that no lot touches Pawtuckaway Pond.

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74 Ms. Czysz said that the statutory reference that the applicant should use is 674.54 IV. She said  
75 this rule deals with private roads and when access can only be provided through another  
76 municipality.

77 Mr. Viel said that there are multiple shared driveways shown on the plans. He said that there is a  
78 town ordinance requiring that shared driveways must be on a common boundary.

79 Mr. Viel opened the floor for comment from the Board or from the public. No additional  
80 comments were made.

81 The conceptual review ended.

82 ***Case# 21-011-SIT: Application from Richard Cote requesting Site Plan approval for a change***  
83 ***of use, allowing the conversion of an existing structure to an office studio. This property is***  
84 ***located at 18 Cooper Hill Rd in Nottingham, NH, and is identified as Map 16 Lot 5.***

85 Mr. Cote and his representative Mr. Frankiewicz introduced themselves. Mr. Frankiewicz  
86 explained that the last time they were before the Board was in August. He said that they have  
87 already gone to the Zoning Board for a variance. He said that the building edge does fall within  
88 50 feet of the North River. He said that the plan to install a deck has been vacated. He said  
89 currently this case is now just a change of use with renovations to the building and there is no  
90 exterior work being done on the property. They have submitted an impact statement with  
91 roughly a dozen questions as well as a waiver request from Section 8.4. They have addressed  
92 parking, will get approval for septic, and that the current lighting is sufficient.

93 Ms. Czysz said that the waiver request and the impact statement came in today (11-10-21) so she  
94 did not have the time to review these documents. She stated that the plans still had the deck  
95 install included and she wanted to clarify that those plans are not what's being approved. She also  
96 stated that Fire Protection and signage have not been addressed.

97 Mr. Viel asked for an explanation of why the usage was switched from condominiums to  
98 apartments. Mr. Cote replied that the units are still considered condos. He said that they all have  
99 separate tax bills; however, he is the sole owner of all the condos. He explained that he uses the  
100 term condo units and apartments interchangeably. He indicated that unit #6 is considered a  
101 commercial unit. Mr. Viel said that where they are indicated as apartments should be changed to  
102 units or condos.

103 Mr. MacKinnon had a question regarding impact fees on a change of use. He said that recently  
104 there has been similar change of use cases in which impact fees were not charged. Mr. Anderson  
105 asked if a legal opinion would be required. He said that the Building Inspector usually applies  
106 the impact fees. Mr. MacKinnon asked if that is the case, should the Board be applying them or  
107 should it be the Building Inspector. He said that impact fees should just be a standard note in all  
108 cases.

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109 Mr. Anderson asked about the current fire hydrant layout. Mr. Frankiewicz said he did not know  
110 about a fire hydrant, however, there are multiple cisterns in the area. Mr. Frankiewicz said he  
111 reached out to the fire department regarding his plans but he did not hear anything back as yet.

112 Mr. Viel said that he would like to see a note about unit #6 that there is no change to that unit  
113 and it is not part of this case. He would like it to be reflected on the plans as so there is no  
114 confusion moving forward.

115 Mr. Viel opened the floor for public comment. There was no public comment.

116 Mr. Viel said that applicant was seeking a waiver for Sections 8.4.5, 8.4.6, 8.4.8, 8.4.10, 8.4.13,  
117 8.4.14 and 8.4.16 of the Subdivision Regulations.

118 ***Mr. MacKinnon made a motion to approve the waiver request from the 8.4 sections of the***  
119 ***Subdivision Regulations. The motion was seconded by Ms. Mooney. The motion was***  
120 ***unanimously approved 7-0.***

121 Mr. Viel discussed the conditions the board would like to see addressed for this case. They are  
122 as follows:

123 -the term apartment shall be changed to units on the plans

124 -unit 6 will remain as is and is not part of this change of use.

125 -there shall be a note included about impact fees

126 -conditions outlined in page six of the staff review.

127 ***Mr. MacKinnon made a motion to approve Case# 21-011-SIT: Application from Richard Cote***  
128 ***requesting Site Plan approval for a change of use, allowing the conversion of an existing***  
129 ***structure to an office studio. This property is located at 18 Cooper Hill Rd in Nottingham, NH***  
130 ***and is identified as Map 16 Lot 5 with the previously stated conditions.***

131 ***Ms. Mooney seconded the motion. The motion was unanimously approved 7-0.***

132 ***Case# 21-013-SUB: Application from James Lavelle Associates requesting a Subdivision***  
133 ***approval to subdivide 29.5 acres into two (2) lots that will both have frontage on Gebig Road.***  
134 ***This property is located at 22 Gebig Road in Nottingham, NH, and is identified as Map 18 Lot***  
135 ***4-B.***

136 Mr. Larry and Mrs. Gretchen Woodman introduced themselves. Mr. Woodman explained that  
137 his representative, Mr. Lavelle, was not feeling well so was not present.

138 Mr. Viel said that the Board was looking for changes included on the plans from the last hearing.  
139 Those changes included a curb cut, an indication of existing driveways, showing where the  
140 30,000 square foot building envelope is, a second test pit included, and correction of map  
141 numbers. He said that it appeared that all previous requests by the Board have been included in  
142 the new plans.

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Mr. MacKinnon had a question regarding the 50-foot requirement for a contiguous area. He pointed out a section on the plan that appears to be pinched in and below the 50-foot requirement. Mr. Woodman asked for clarification on the 30,000 square foot contiguous area rule. Mr. MacKinnon explained the 30,000 square foot contiguous area envelope rule which does not allow for a less than 50-foot hourglass-like section. He said that a slight adjustment to the lines drawn should correct this issue. He said that the definition for the lot envelope can be found in the Subdivision Regulations. Mr. Woodman and Mr. MacKinnon agreed that there's plenty of room to make the adjustment to conform to the regulation.

Mr. Viel said that since such a substantive change would be needed to the plans this case would be best to continue to the December 8th meeting.

***Ms. Mooney made a motion to continue the Case# 21-013-SUB until December, at 7:00 PM. The motion was seconded by Mr. Anderson. The motion was unanimously approved 7-0.***

***Case# 21-016-SUB: Application from Estes Family Trust requesting to subdivide a lot into 4 lots with existing frontage. This property is located at Kennard Road (Kennard Road is a scenic road) in Nottingham, NH, and is identified as Map 12 Lot 14.***

Mr. Paul Dobberstein of Ambit Engineering introduced himself on behalf of Estes Family Trust. He described the features of the proposed subdivision as follows:

- The parcel contains approximately 33 acres and has a unique shape.
- The property is comprised of woodlands, wetlands, and hills.
- All the proposed lots will have road frontage and utilize Kennard Rd.
- There is one shared driveway proposed.
- All the lots meet zoning requirements regarding frontage and contiguous area.
- Lot 4 has the 30,000 square foot requirement and it has some steep slopes. He believed that his interpretation of the Subdivision Regulations allows for steep slopes be waived. He did state that there was not a waiver submitted for such, however, he will submit one if the Board requires it.
- The present application includes two waivers that address topography and wetlands.

***A motion was made by Mr. Anderson to accept the application as complete. The motion was seconded by Ms. Mooney. The motion was unanimously approved 7-0.***

***A motion was made by Mr. Anderson that this application is not of a regional impact. The motion was seconded by Ms. Andersen. The motion was unanimously approved 7-0.***

Ms. Czysz said that she and Mr. Haney reviewed the waiver requests and did not see any issues in accepting them. They did, however, have a question about Lot 2 and its intended use. She said that the steep slopes on Lot 4 would be something that the Board should look at.

Mr. Dobberstein replied that he was not aware of any future plans to do anything with Lot 2. He said that they had discussed Lot 4 earlier regarding the steep slopes.

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179 Mr. Anderson inquired about a driveway easement proposal. Mr. Dobberstein said that due to  
180 buffers and slopes that an easement wasn't necessary.

181 Mr. Viel indicated that there are many regulations for Lot 4 to overcome and it is likely that the  
182 plan may eventually eliminate that lot. He also had a question about a landlocked lot with no  
183 access. He said that he would like to see clarity on an access proposal. Mr. Viel asked if the  
184 wetland areas contain poorly drained soils: Mr. Dobberstein said they did. Mr. Viel asked if Lot  
185 1 was impacting the wetland area: Mr. Dobberstein said it was not. Mr. Viel stated that Kennard  
186 Rd. is considered a scenic road and that the Conservation Commission must review the plan.

187 Ms. Mooney said that on behalf of the Conservation Commission, they would very much like to  
188 review the application and possibly do a site walk. She said the evaluation is not only for the  
189 scenic road but for the wetlands and rivers as well. She asked for clarification of lot sizes. Mr.  
190 Dobberstein said that Lot 1 is 2.2 acres, Lot 2 is 24.7 acres, Lot 3 is just over 2 acres, and Lot 4  
191 is 4.1 acres. Ms. Mooney said that there are two ponds in that large land block that the town  
192 would be interested in protecting along with the surrounding land. She suggested the possibility  
193 possibly of placing the area into a protective easement and that the town could reimburse the  
194 owners for the loss of value. Ms. Mooney said the town currently has public trails in that area as  
195 well.

196 Mr. Viel opened floor for public comment. There was no public comment

197 Ms. Mooney said that the next Conservation Commission meeting is December 13<sup>th</sup>. Miss  
198 Andersen expressed interest in walking the site. The Board discussed the need for a site walk and  
199 how to organize it. Mr. Viel said he did not see a need for the Board to do a site walk. Ms.  
200 Andersen said that she can walk the site alone as permission has been given by the applicant.

201 ***Ms. Andersen made the motion to continue Case# 21-016-SUB until December 8<sup>th</sup> at 7:00 PM.***  
202 ***Ms. Mooney seconded the motion. The motion was unanimously approved 7-0.***

203 Mr. Viel opened the floor for public comment. There was no comment.

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

205 Mr. Morin said the Select Board had a meeting with the School Board for the future home of the  
206 SAU. They felt that it would be good to use the Old Town Hall. He said it was an opportunity to  
207 renovate the building and to also free up space in the current town office.

208 Mr. Viel said that the Board needs to be prepared to discuss the Zoning Amendments in the  
209 upcoming December meeting. He continued by mentioning that in the last meeting, the Board  
210 volunteered Mr. MacKinnon to draft clarifying language for the building height requirements so  
211 to assist the Building Inspector.

212 Ms. Mooney brought up the 300th town anniversary. The Board discussed events during and  
213 leading up to the anniversary.

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214 Ms. Andersen asked about the upcoming winter season and if the Board will be meeting partially  
215 or fully remote this year. Mr. Viel said that he does not believe that they are able to meet  
216 remotely due to state regulations. Ms. Czysz stated that the current ruling is that there be a  
217 physical location where a quorum of members shall attend. She also said that some Board  
218 members can participate remotely, but they need a good reason to do so. Mr. Viel brought up the  
219 technical challenges in having remote meetings. He said that it would make sense for the town to  
220 explore remote, technical capabilities for current and future meetings for all boards. The Board  
221 discussed multiple different options available for remote meetings.

222 Ms. Czysz said that the SRPC is in the process of coordinating the next quarterly  
223 Commissioner meeting. She indicated that there are some Commissioners who suggested that a  
224 Resiliency Subcommittee be formed. Details are being discussed. Mr. Viel said that the Board  
225 did submit the letter for the aquifer protection grant on behalf of Nottingham for the SRPC.

226 Mr. Lemieux mentioned that the upcoming December meeting was already full due to multiple  
227 continuations in previous hearings. When he receives all applications for the December meeting,  
228 he will reach out to the Board for clarity for setting the December agenda. He also said that he  
229 was assembling the 2022 calendar for next year's meeting schedule.

230 Mr. Viel mentioned that a 2022 budget should be drafted shortly for the Board.

231 ***Ms. Mooney made a motion to adjourn the meeting. The motion was seconded by Mr. Morin.***  
232 ***The meeting was adjourned at 9:04 PM.***

233

234