

**Nottingham Planning Board Meeting**

**DATE: November 16, 2022**

**Official as of December 14, 2022**

**Call to Order**

**Members Present:** Eduard Viel, Chairman; Susan Mooney, Secretary; Charlene Andersen, SRPC Representative; Sherry Sandler, Member; Robert “Buzz” Davies, Alternate; Sandra Jones, Alternate.

**Members Absent:** Ian MacKinnon, Vice Chair; John Morin, Select Board Ex-Officio Representative; Gary Anderson, SRPC Representative.

**Alternate Seated and Voting:** None.

**Others Present:** Blair Haney, SRPC.

**Call to Order**

The meeting was called to order at 6:30PM.

**Roll Call**

Roll call was completed.

**Zoning Ordinance and Subdivision Regulations updates to be considered for 2023**

Mr. Viel proposed going through a list of items requiring attention from the Board.

***Lot Disturbance Coverage***

Mr. Viel suggested tabling this topic due to the fact that the majority of it is included in the revised site plan/subdivision regulations.

***Define Impervious Surfaces***

Mr. Viel advised that the Town has impervious surfaces listed in the *Zoning Ordinances* but that it is not really defined. He recommended that the Board consider defining impervious surfaces if they move forward with some warrant articles. He stated that the *Zoning Ordinances* mention “impervious” six times; in relation to maximum lot coverage with an aquifer protection district, permitted uses in the aquifer protection district, the stream protection overlay district, and in the low-impact development definition.

Mr. Viel stated that he had looked at how a number of surrounding towns define impervious surfaces and reported that he liked Portsmouth’s definition: “any modified surface that cannot effectively absorb or infiltrate water. Impervious surfaces include, but are not limited to, roofs and paved areas such as driveways, parking areas, or walkways. Impervious surfaces also include decks, patios, and gravel or crushed stone surfaces unless such structures or surfaces have been designed to effectively absorb or infiltrate water.” Mr. Viel advised that he had discovered similar definitions in other surrounding towns.

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Ms. Mooney stated that she would have liked the definition to include “compacted dirt or soil” after “patios and gravel or crushed stone”.

Mr. Davies inquired as to why “crushed stone” should be included in the definition at all, as “crushed stone” by definition is made to let water drain through. Ms. Mooney advised that this is not necessarily true of all crushed stone.

Ms. Jones inquired as to why “roofs” are included in the definition if they are not on the ground. Mr. Viel replied that it is the total imperviousness of the lot that comes into play in a case.

Ms. Jones stated that she liked the simplicity of the “impervious surfaces” definition within the steep slopes ordinance. She noted that this is clearer than the proposed definition current used by Portsmouth. She suggested that the simpler the Board keeps things, the more understandable and enforceable they are. Ms. Mooney agreed and suggested that the more the Board targets certain structures, the more limiting it is for ones that aren’t in the list. Mr. Viel advised that he would need to check to see if the RSA definition remains the same but that he would be inclined to go with the RSA definition instead of creating their own. After looking it up, it was concluded that the RSA definition is verbatim with the steep slopes ordinance definition. Mr. Viel recommended that the Board add the RSA definition into the *Zoning Ordinances*. Ms. Andersen suggested adding examples to the RSA language. Mr. Viel advised that the RSA definition already includes examples.

***Steep Slopes Ordinance***

Mr. Viel noted that the Board has a draft ordinance that, if included, would need to be amended in a few different places. He suggested that tapering it down slightly would be a good place for the Board to start. He stated that he, in the past, has looked up steep slopes ordinances of other towns. He noted that DES’s model language and guidance for implementation has some additional language and thresholds that could be helpful to follow. He noted that the Board’s current draft shows a 15% threshold (which has been discussed to change to 25% to match what it considered a critical area). He noted that DES’s version indicates that if it is over 25%, then it is not allowed to be used for structures to be built on. He advised that the reason for this is to try and protect areas that are more environmentally sensitive. Areas with steep slopes can generally be more susceptible to erosion and, based on best practices, should be avoided if possible. He advised that any slope greater than 25% would be deemed non-buildable.

Ms. Sandler asked why the Board needs to develop a definition of steep slopes if there is already one in the *Zoning Ordinances*. Mr. Viel replied that it would make it clearer than it is right now.

Ms. Jones noted that the reference to 15% is very confusing. Mr. Viel replied that this could be changed. He advised that if you do a steep slope district, you start to create a threshold where it’s slightly lower and where there are some additional things imposed upon the developer or applicant. It would allow building on slopes but would make it clear that slopes between 15-25% would be highly erodible and could potentially cause other concerns, and that slopes 25% and

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above are either non-buildable or, if the Board wants to change what's already written, are buildable under certain conditions.

Ms. Mooney reported that she likes the proposal made by a Mr. Mayberry a number of years ago because it takes steep slopes and makes it its own entity rather than coming under the umbrella of "unbuildable", yet it defines it, lines it up with an RSA, cuts it into a 15% slope and then a 25% slope, and offers rationale for doing such.

Mr. Viel noted that this definition would be applicable to major subdivisions and new site plan applications. Other, smaller subdivisions would not be subject to this. As the ordinance is written now, they technically are subject to this.

Ms. Mooney advised Ms. Jones that one of the reasons why a 15% slope is the cutoff is for long vehicles such as oil delivery trucks or fire trucks. They cannot negotiate a slope greater than 8%. Another reason would be for safety in the wintertime; many people end up parking at the end of their driveway and walking up when it gets iced over.

Mr. Haney advised that the Board replace "steep slopes" with "slopes greater than 25%" in order to make the language more precise and clear.

Ms. Sandler asked whose definition would trump the other if the Board has a different definition than Zoning. Mr. Viel clarified that the Board creates the definition that Zoning follows, pending it gets approved through the Town's process.

Mr. Viel advised that DES recommends that municipalities consider a threshold so that it is clear that it's the amount of the steep slope that's potentially being impacted. Their recommendation was for proposed site disturbances greater than 20,000 square feet.

Ms. Mooney recommended that the Board look into what surrounding towns (like Deerfield or Northwood) have written for steep slopes ordinances.

Mr. Viel advised that he would send out DES's model language for the Board's review and concluded that the Board can revisit this later on.

***Roadway Setbacks***

Mr. Viel advised that the Board has added driveway setbacks to the ordinances but has yet to address roadway setbacks. By definition, this is any new road that is coming before the Board for a subdivision or site plan. He recalled that Mr. Haney had suggested that the Board update the subdivision and site plan regulations to include some kind of roadway setback.

Ms. Mooney asked where driveway setbacks are discussed. Mr. Viel replied that they are discussed in the *Zoning Ordinances*. He stated that the Board had added driveway setbacks to the commercial zone. He recommended that the Board amend the existing definition to include accesses and any new roadways in the *Subdivision Regulations*.

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Ms. Mooney asked for clarification regarding the addition of driveway setback a minimum of ten feet. She asked if accesses would also apply to a roadway going in. Mr. Viel responded that he would interpret it as such. Ms. Mooney stated that she did not interpret it as such, and had understood that a new road is different from a driveway. She asked if the Board defines ‘access’. Mr. Viel responded that this had been recommended in the past when a large subdivision proposal came before the Board. He advised that the goal is to balance the rights of the landowner/developer with the rights of individual abutters as well as the community. Ms. Mooney proposed putting it in the *Zoning Ordinances*, Article II; Zoning Districts and District Regulations, under Residential Agricultural District. Mr. Viel voiced agreement with this and noted that the Board can make an ordinance more restrictive in some districts and less restrictive in others.

Mr. Viel advised that the Board will revisit this at a later date.

***Cleanup items***

Mr. Viel advised that there are a number of appendices and definitions in the *Zoning Ordinances* and *Subdivision Regulations* that need to be revised, but recommended waiting to address these. He noted that the Board should not alter appendices unless there is a warrant article approving that they do so.

***SRPC and the Aquifer Protection District***

Mr. Viel handed out a map displaying the current Aquifer Protection Overlay District. He advised that anything highlighted in yellow indicates the potential addition of the wellhead protection areas. He further advised that Nottingham, along with some other communities, had been included in to update and amend the Aquifer Protection District.

Mr. Haney reported that the funding source is the NH DES Source Water Protection Grant. The purpose of this is to help municipalities update groundwater and drinking water protection regulations. It would provide improvements based on DES groundwater protection model that they had created, as well as ensure correct references/changes to RSA’s or other environmental rules, clarify legal authority, and describe what’s permitted and prohibited a little better.

Mr. Haney advised that the project involved taking a hard look at both the NH model and Nottingham’s model and seeing what key elements are missing and where improvements could be made. He advised that they are adding a design performance section and a maintenance/inspection section.

Mr. Viel recommended that it may be easier and cleaner to propose an entirely new model rather than try to notate modifications to the existing model. Mr. Haney responded that this could be done.

Ms. Mooney asked that “Board of Selectmen” be replaced with “Select Board” throughout the document. Mr. Haney said he would make this change.

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Mr. Haney inquired as to whether or not the Board would want to include wellhead protection areas. Ms. Mooney voiced support of this.

Mr. Haney reported that he will bring a summary of the proposal to the next Board meeting.

***Wetlands buffer***

Ms. Mooney noted that the Town has buffers for both vernal pools as well as first, second, and third order streams but that it does not have a buffer for wetlands. She noted that there is a setback, depending on soils, but no language for “no-cut”. She recommended that the *Zoning Ordinances* Article III be amended to include a wetland no-cut buffer of twenty-five feet. Mr. Viel asked if this would be eligible for a conditional use permit. Ms. Mooney responded that it would.

**Public Comment**

None.

**Approval of Minutes**

None.

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

Mr. Viel advised that Alanna Kenney has been hired and started as the new Land Use Clerk.

No other comments were made.

**Adjourn**

***Ms. Mooney made the motion to adjourn. The motion was seconded by Ms. Sandler. The motion was unanimously approved by a vote of 4-0-0.***

The meeting was adjourned at 8:40PM.

Respectfully submitted,  
Rachel Dallaire, Transcriber