

Nottingham Planning Board Meeting

DATE: March 23, 2022

Official Minutes

Call to Order

Members Present: Eduard Viel, Chair; Ian MacKinnon, Vice Chair; Susan Mooney, Secretary; Gary Anderson, SRPC Rep; Charlene Andersen, SRPC Rep; Sherry Sandler, Member; Robert “Buzz” Davies, Alternate; Sandra Jones, Alternate

Members Absent: Ben Bartlett, BOS Rep

Alternate Seated and Voting: None

Others: Kevin Lemieux, Land Use Clerk; Blair Haney, SRPC Planner; Chris Berry, Berry Surveying & Engineering; Dawn Fernald, Applicant; Joe Fernald, Applicant; Rick Kulp, Abutter; Francis Circello

Call to Order

The meeting was called to order at 7:02PM.

Roll call

Roll call was completed.

Public Hearings

Case #22-002-SUB (continued)

Application from Concrete Products of Londonderry requesting to create a four (4) lot Subdivision. This property is located at 100 Smoke Street, in Nottingham, NH, and is identified as Map 11 Lot 3.

Mr. Viel indicated that the applicants had requested an extension for the case until the first meeting next month, April 13, 2022, meeting.

Ms. Mooney made a motion to continue Case #22-002-SUB until the April 13, 2022, Planning Board meeting at 7PM. The motion was seconded by Mr. MacKinnon. The motion was unanimously approved by a vote of 6-0.

Case #22-003-DR

Application for a Design Review from Berry Surveying and Engineering on behalf of James and Linda Fernald requesting to create a (2) lot Subdivision with a private road. This property is located at 54 Deerfield Road, in Nottingham, NH, and is identified as Map 52 Lot 4-2.

Mr. Christopher Berry came forward to the applicant desk and introduced himself as the representative from Berry Surveying and Engineering for the landowners, James and Linda Fernald. He stated that the applicants own a substantial piece of property between Deerfield Road and Pawtuckaway Lake. The applicants currently have a home on this property. They are

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currently in the process of estate planning and wish to add another home on the property. They are not seeking to subdivide the property in its totality. He added that there is a lot of road frontage. A small portion of the property has a cut-out of land that belongs to abutters across Deerfield Road. The aim of the proposal is to build a substantial right-of-way that will encompass the existing driveway with the potential to establish a roadway that is approximately seventy (70) feet in width and two thousand (2,000) feet long. The roadway would lead to a cul-de-sac with a new conforming lot created.

Mr. Viel opened the floor for discussion and for the Board to ask questions of Mr. Berry.

Ms. Jones asked Mr. Berry for clarification on the proposed right-of-way. Mr. Berry responded that the plan is to build a right-of-way around the existing structure and enhance the roadway to meet life safety standards. He added that the existing roadway currently on property is not a small driveway, but a substantial roadway. He committed to making upgrades where needed to bring roadway up to current subdivision standards.

Mr. Viel inquired about Mr. Berry's interpretation of 15:4 of the Subdivision Regulations. Mr. Viel said that two (2) lot subdivisions usually have a shared driveway. He added that a road is typically established with three (3) or more lots in a subdivision. Mr. Berry replied that he did not believe that the Regulations allow for frontage from a shared driveway. Ms. Jones inquired if the existing lot, after divided, would have frontage. Mr. Berry answered that it would have frontage on this new private road.

Mr. Anderson asked Mr. Berry if he had a feel for what the buildable area would be on the new lot. Mr. Berry responded with an approximate location near the lake. Mr. Viel said that the proposed access, including the driveway, would be approximately twenty-five hundred (2500) feet to Deerfield Road. He added that the Fire Chief will likely impose additional safety requirements based upon the proposed length. Mr. MacKinnon asked if a proper turnaround has been considered for the cul-de-sac to satisfy emergency vehicle needs, like a firetruck. Mr. Berry replied that to meet Life Safety requirements, a turnaround will be needed.

Ms. Mooney informed Mr. Berry that a recently voted on Zoning Amendment required a ten (10) foot property line setback for driveways. Mr. Berry said that the proposal meets the new driveway requirement. Mr. MacKinnon added that the regulation is for a driveway and that the proposal is requesting a private road.

Mr. Davies asked that if the private road is granted, would the larger lot then become subdividable. Mr. MacKinnon referred to 15:4:5 of the Subdivision Regulations that states that if a Subdivision received waivers for a private road, further subdividing of lots would not be permissible until the roads are brought up to the current standards and approved by the Board.

Mr. Viel returned to the subdivision regulation regarding a two (2) lot subdivision which allows a shared driveway and a three (3) or more lot subdivision may have a private road with waivers. He added that an option that would require Zoning Board approval would be to maintain the 200-feet of frontage on Deerfield Road while keeping the driveway as a shared drive. He believed it

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would be an easier route for Zoning to approve the shared driveway in lieu of a creating private road, even though the driveway is not on the property line, because it is already existing. Mr. Berry said that there currently is not 200 feet of existing frontage.

Ms. Mooney referred to the small cut of land with a shed installed that disrupts the contiguous road frontage. She wondered if it was purchasable. Mr. Joe Fernald stated that his family has tried to buy the land with no success.

Mr. Berry said that the Planning Board could contemplate a waiver for the private road if the property was subdivided into two (2) lots. Mr. Anderson added that the Select Board may need to be consulted for a liability waiver. Mr. Viel said the Planning Board would need to decide what sections of the Subdivision Regulations are waivable.

Mr. Viel asked Mr. Lemieux to find the new definition for driveways from the Zoning Amendments.

Mr. Davies said if the current lot is old enough, then it could be treated as a Back Lot Subdivision. This would make the back lot not subdividable in the future.

Mr. Lemieux found the new driveway definitions which are as follows:

“DRIVEWAY: A travel way which accommodates vehicular and pedestrian circulation between a street and one adjoining lot.”

“SHARED DRIVEWAY: (also COMMON DRIVEWAY) A travel way which accommodates vehicular and pedestrian circulation between a street and multiple adjoining lots.”

Mr. Berry pointed out that the new definition for a *Shared Driveway* says “multiple adjoining lots” while the Subdivision Regulations states “two” lots. Mr. MacKinnon concurred. Mr. Haney said that it was only the definition, and the Board should not regulate through the definition.

Ms. Jones stated that the whole process would move along easier if the Board approved the usage of a private road for the proposed subdivision. Ms. Andersen replied that the hearing is only a Design Review and has provided the applicants with options for them to consider when formally submitting a Subdivision Application. She doesn’t believe the Board should be telling the applicant how they should create their plans.

Mr. Berry made a distinction between his applicant’s desire to build a two (2) lot subdivision with a private road and the potential to build a three (3) or more-lot subdivision with a new roadway. He argued that two (2) larger lot subdivision with a private road would be more desirable as it is less congestive, and the town is not responsible for the road. Mr. Viel countered that he is stuck on the 200 contiguous feet for a curb cut regulation. He stated that he will need to do more research into the regulations for more guidance.

Mr. MacKinnon commented that waivers could be utilized. He noted a regulation that stated waivers could be granted for three (3) or more lots. He agreed that the regulations are a bit confusing regarding this proposal.

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Mr. Berry said that the preference for the project is to stay with one board as opposed to applying for a variance if there is a way to achieve such. Mr. Anderson added that he would like to hear from the Select Board for feedback.

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

Mr. Viel asked Mr. Berry how he would like to move forward; would he continue the Design Review or work toward a Subdivision Application. Mr. Berry inquired if he were to continue the Design Review, would more pertinent information be forthcoming. Mr. Viel replied that he did not see much more information forthcoming from a continued Design Review. Mr. Davies referred to Mr. Anderson's concern with review from the Select Board. Mr. Berry added that he did not believe that an approved Subdivision did not need Select Board waiver approval for a road. He stated that if he needs to go before the Select Board, he will need more information than he had gathered at the current hearing. He requested to end the Design Review and will move forward to the next phase of the project.

Mr. MacKinnon made the motion to close the Design Review portion of Case #22-003-DR.

Mr. Anderson seconded the motion. The motion was unanimously approved by a vote of 6-0.

(Mr. Viel opened the floor for public comment. There was no public comment.) WHAT'S THIS?

Other

Mr. Lemieux projected onto the conference room screen edits to the current *By-Laws and Rules of Procedure for the Transaction of Business* (subsequently referred to as *By-Laws*) previously provided to him by Ms. Andersen.

Ms. Andersen spoke to the edits she had made. Much of the edits she made were regarding continuity of the *By-Law* format, including proper labeling of RSAs and updating of the language. She updated the former Office of Strategic Initiative state department to the current Office of Planning and Development.

Mr. Viel offered suggestions including re-ordering and re-numbering the category headings. He suggested editing language regarding the Ex-Officio member in the *By-Laws* as well. He believed that clarification of "*members*" should state, "*including alternates*" when suitable. Ms. Mooney asked to change pronouns to gender neutral terms, ex: *himself/herself* would now be *themselves*; *him/her* would now be *their*.

The Board discussed amending the duties of the Secretary role. Ms. Andersen believed that Section V and VI could be tweaked to adjust the language of the Secretary taking over the role of Chair in the absence of both the Chair and Vice Chair. The edits were made.

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Ms. Mooney suggesting adding language requiring that new members be “sworn in” by the Town Clerk or another official with authority.

Mr. Viel wanted to include the *Capitol Improvement Committee* section under *Committees*. The Board discussed different edits regarding committees throughout the *By-Laws*. Mr. Veil offered to assist Mr. Lemieux in crafting the language regarding committees.

The Board made updates to the *By-Laws* that addressed the structure of the meeting agendas. Mr. MacKinnon believed that a Conceptual Review or Design Review moves quicker than Subdivision and Site Plan Applications. He suggested moving them toward the beginning of the meetings on the agenda. Ms. Andersen countered that Subdivision and Site Plan Applications should take precedent due to being further along in the planning process. The Board discussed the various application types and their importance.

Ms. Mooney offered grammatical edits to the *By-Laws*.

Mr. Veil suggested moving the current Article XII section and incorporate it into the new Article I section.

Mr. Viel asked Mr. Haney for clarification on recording the amendment dates of the *By-Laws*. Mr. Haney replied that it is a simple recording method. Ms. Andersen suggested putting the amended date on the cover of the *By-Laws*.

Mr. Viel committed to first working with Mr. Lemieux on the editing and re-ordering of the *By-Laws*. The *By-Laws* changes will then next be distributed to the Board for final changes and approval.

Board/Staff Updates

Ms. Andersen had reached out to Colin Lentz, the Senior Transportation Planner at the Strafford Regional Planning Commission, regarding the NH Department of Transportation’s *10-Year Plan* projects. Mr. Lentz had emailed Ms. Andersen stating that a Corridor Study may be needed if there are several intersections of concern for the Town on Route 4. He suggested looping in the abutting towns of Lee, Barrington, and Northwood to review the Route 4 corridor. He added that there is currently state money allocated for Corridor Studies. Ms. Andersen suggested drafting a letter of such with the Select Board. She added that Mr. Lentz offered to assist the Town with Route 152 and Route 156 as it pertains to developing bicycle lanes. The Board discussed who would reach out to the abutting towns. Would the Planning Board or the Select Board be the agency to reach out to the abutting towns? Mr. Anderson suggested bringing it up at the next SRPC meeting.

Ms. Mooney informed the Board that the medallions for Scenic Roads were being worked on by Sundance Sign Company. She had also reached out to the Town Administrator in the nearby town of Durham for information on the town’s regulations on road salt usage in Aquifer Overlay

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Districts. She suggested that the Town should start considering similar regulations in its Aquifer Overlay District.

Mr. Viel stated that he had followed up with the Town Administrator, Mr. Chris Sterndale, with a bullet point list of items from the last meeting. His list was an indication to the Town on upcoming objectives from the Planning Board, including the road salting in Aquifer Overlay Districts and the NH *10-Year Plan* projects in town.

Mr. Anderson summarized transportation items from the latest SRPC Policy Meeting. The topics covered included Community Transportation and Electric Vehicle Charging Stations. The Board discussed multiple EV stations in the local area.

Mr. Viel reminded Mr. Davies that his term as an Alternate may be over. He stated that he will research the exact date of his term expiration.

Ms. Jones thanked the Board for accepting her as an Alternate. She informed the Board that she was recently sworn in.

Mr. Haney said that there is funding for the EV stations as part of the new Infrastructure Plan. He said that he is keeping an eye on best practices that arise from existing towns for other towns that would be interested in installing EV stations.

Mr. MacKinnon asked Mr. Haney if he knew any details about the Governor's *Invest NH* plan and specifically how it pertains to workforce housing. Mr. Haney was not familiar with the program.

The Board discussed existing installations of EV stations in further out communities citing Kennebunk and other areas in Southern Maine. Locations such as the town hall or school might be suitable for EV stations.

Mr. Lemieux informed the Board that he had mylar plans that needed signatures from previously approved cases. He added that in his conversations with the Town Fire Chief, Chief Vilchuck said that he only needs one set of large plans site plans for review. The Board discussed what procedures would need to be followed to reduce the number of large plans submitted with Site Plan and Subdivision applications.

Mr. MacKinnon made a motion to adjourn. Ms. Andersen seconded the motion. The motion was unanimously approved by a vote of 6-0.

The meeting was adjourned at 9:05 PM.