

**Nottingham Planning Board / Zoning Board Joint Meeting**

**DATE: August 30, 2023**

**Official Minutes**

**Call to Order**

**Present:** Eduard Viel, Planning Board Chairman; Ian MacKinnon, Planning Board Vice Chair; Susan Mooney, Planning Board Secretary/Conservation Commission; Robert “Buzz” Davies, Planning Board Alternate; Teresa Bascom, Zoning Board Chairwoman/Planning Board Member; Terry Bonser, Zoning Board Vice Chair; Bonnie Winona-MacKinnon, Zoning Board Member; Kevin Bassett, Zoning Board Alternate; Kathy Mayo, Zoning Board Member; Samuel Demeritt, Conservation Commission Chairman; John Morin, Select Board Ex-Officio Representative to the Planning Board; Dale Sylvia, Building Inspector/Code Enforcement; Alana Kenney, Land Use Clerk; Blair Haney, SRPC.

**Call to Order**

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

**Public Hearings**

No public hearings or regular business.

**Other**

***Potential Update to Aquifer Protection District and Zoning Maps***

Mr. Viel advised that a cleaner and smaller-sized file is now available to view online. No changes to the map itself have been made, per the Strafford Regional Planning Commission (SRPC).

Mr. Haney advised that the file size went from nine (9) megabytes to two (2) megabytes, which has made the document easier to access and navigate.

Mr. Viel added that, similarly, the Zoning Map that has been online also needs to be updated, as it has been mislabeled.

Ms. Mooney asked if either of these items have a cost. Mr. Haney reported that the Aquifer Protection District Map has already been taken care of. He will look into the cost of updating the Zoning Map.

Mr. Sylvia advised that updating and replacing the large paper maps in the Town Office is important because many people come in and look at them for reference if they do not have access to the maps online.

***Impact Fees***

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Mr. Viel reported that the Planning Board is hoping to put out a request for a proposal in 2024, as the last time the current impact fees were reviewed was about five (5) or six (6) years ago. They have found someone who handles these types of reviews and assessments. The Planning Board will be looking closely at the Capital Improvement Plan (CIP).

Mr. Morin stated that the Highway Department may be a more beneficial area to apply impact fees, as there is currently no “break room” for employees. He noted that the impact fees must be spent on something new rather than renovating an older structure.

Mrs. Bascom asked whether or not impact fees needed to be spent on something that is a direct result of the growth of the town. Mr. Viel confirmed that they do. Mrs. Bascom and Mr. Morin agreed that additional Highway Department vehicles could be purchased and new structures could be built to shelter them, which would fall under the criteria.

Mr. Viel noted that, by outsourcing this project to a professional, the Planning Board would be provided with a detailed report that would help them make decisions regarding where impact fees should be spent. He reported that he had some more research to do in terms of how the Planning Board moves forward with this project.

***Zoning***

Mr. Viel noted that there are some subsections within the *Zoning Ordinance Regulations* that are misnumbered.

Mr. Bassett recalled that the Zoning Board recently heard a case specific to Article III, Section E.3 and the Aquifer Protection District re: the number of animals that are allowed in that area. Mr. Viel stated that the Planning Board would have to look at adding a definition to the *Ordinance* so as to alleviate any confusion in the future.

Mr. Haney recommended revising the *Ordinance* to limit the number of animals allowed to “so many two-legged animals” and “so many four-legged animals”. He further recommended that the Planning Board not regulate the *Ordinance* through a definition of the word “animal”. The idea is that a definition restricts what a word means.

Mr. Bassett stated that the alternative is that the Planning Board leave the *Ordinance* as is and debate the issue on a case-by-case basis.

***Applications***

Mr. Viel noted that the Planning Board is looking at cleaning up the *Subdivision* and *Site Plan Review* applications so they are more concise and possibly eliminate unnecessary costs to applicants. The Board will also request an electronic version of an application so that the documents can be more easily reviewed and distributed to Planning Board members.

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Mr. Morin requested a discussion re: Subdivision application fees. He stated that with the cost of everything going up, the Planning Board should consider raising the cost of these Subdivision application fees.

Mr. Viel reported that this is something that the Planning Board has discussed and that they would need to bring recommended fee changes to the Select Board for approval. He noted that they do not want to raise fees so much that they prevent individuals from submitting applications. He further noted, however, that the Land Use Clerk, Building Inspector/Code Enforcement, and SRPC all have costs associated with them and any fee increases would help to support these roles. He recommended that the Planning Board set a fee in the form of an escrow for a particular number of contract hours depending on the application.

Mr. Sylvia recommended that the Planning Board look into what triggers an impact fee on a commercial site. He noted that some clarification on this would be helpful to him as Building Inspector/Code Enforcement.

Mr. Viel agreed and noted that it is important for the Planning Board to know who assesses the impact fees and when they are collected. He inquired whether or not impact fees should be collected on plan approval by the Planning Board or if they should be collected on building permit approval by the Building Inspector. Mr. Sylvia expressed support of the latter, which is what the town has been doing presently.

***Conditional Use Permits***

Mr. Viel stated that the Planning Board is looking at including verbiage at the top of the permit application that notes that the applicant may be required to pay for re-notification. He noted that the town's legal counsel has advised the Planning Board that if an applicant applies for a Conditional Use Permit (CUP) after the initial application has been submitted, abutters have to be re-notified, as it involves a change in the application.

***Current List of Appendices in Each Regulatory Document***

Mr. Viel reported that the Board needs to make sure that documents are updated with current road names and road types (private versus town versus emergency lanes). The documents should also be reviewed to ensure accuracy.

Mr. Haney asked what the reason is for having maps of cisterns and fire hydrants in regulatory documents. Mr. Viel replied that this is largely for the applicant's use. Mr. Morin noted that a subdivision may not have to make plans to install a cistern if there is currently one within so many feet of the parcel.

Regarding *Zoning Ordinance* appendices, Mr. Viel stated that discussion as to whether or not they should be taken out and create separate documents at a later date.

***Fee Review***

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Mr. Viel reiterated that the town currently absorbs some of the fees associated with recording of plans. The town is not compensated for the time that the Land Use Clerk spends recording plans. A benefit to the applicant recording their own plans is that they can get the plans recorded as soon as they have the required signatures and that they absorb the cost to do so. Thus the fee is the responsibility of the applicant. A benefit to the Land Use Clerk recording the plans is that the Planning Board knows that the newly-signed plans are in good hands rather than traveling via a third party to get recorded. Mrs. Bascom noted that an added benefit to the Land Use Clerk recording the plans is that she can speak to the details of an application and the Planning Board's approval of it oftentimes better than the applicant might be able to. Mrs. Bascom voiced support of the responsibility of recording the plan set to be kept in the hands of the Land Use Clerk. Mr. Morin suggested that the subsequent fee be raised in order to compensate for the Land Use Clerk's time and efforts. Mr. Haney noted that sometimes a developer is not able to get funding until a plan set is recorded and that they may prefer to record the plan set themselves. Discussion followed about whether or not the Planning Board would be legally allowed to delegate this responsibility solely to the Land Use Clerk. Mr. Viel reported that he would ask for Town Counsel's input.

Mr. Viel stated that the Planning Board hopes to recommend to the Select Board and implement a \$5,000 escrow account for major subdivisions and major site plans.

***Master Plan Update***

Mr. Viel reported that there had been an update of the *Master Plan* about a decade ago and that the Planning Board is due to review it again. They anticipate such a budget item request for 2024 and would welcome additional community engagement for the project.

Mr. Morin asked how a budget amount is determined for a review of the *Master Plan*. Mr. Viel replied that they would likely look at what surrounding towns have budgeted in recent years. SRPC may be a good resource for this. Mr. Morin noted that budget season is quickly approaching and it would be helpful to have this number in mind soon. Mr. Haney reported that the town of Strafford recently did a full review of their master plan. He continued that some communities would review their master plan in parts rather than attempt to review the entire thing in one year. He recommended getting the community involved in as many ways as possible and recommended sending out surveys or holding town meetings.

***Temporary Moratorium***

Mr. Viel reported that there has been discussion about looking at a temporary moratorium of building permits, a subdivisions/site plans moratorium, and a growth moratorium. Per the RSA, there are criteria and costs involved to implementing a moratorium. He welcomed discussion as to whether or not the Planning Board should spend time on crafting a warrant article for this.

Mrs. Bascom noted that there have been multiple larger subdivisions and site plan reviews that have come before the Planning Board this year and asked Mr. Sylvia if he is aware of any others

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177 coming up. Mr. Sylvia reported that the town has seen two applications for over twenty lots (one  
178 a subdivision and the other a site plan review) as well as a seven (7)-lot subdivision on Stevens  
179 Hill Road and several two-or-three-lot subdivisions. Last year twenty-two (22) new building  
180 permits were approved for new homes, not including condominiums or accessory dwelling units  
181 (ADUs). He believes they are closing out about forty (40) new homes per year. Mrs. Bascom  
182 expressed concern that the town will exceed this number in 2024. Mr. Sylvia reported that it is  
183 hard to say, because they have outstanding building permits from 2021 because sometimes  
184 applicants take a while to build homes. He advised that the best way to get an estimate of how  
185 many new homes are built in a year is to look at certificates of occupancy and impact fees. He  
186 estimated that without counting subdivisions, there are about twenty (20) to thirty (30) new  
187 homes built each year.

188  
189 Mrs. Bascom noted that an average of twenty-five (25) plus twenty (20) new homes for each  
190 major subdivision before them would amount to sixty-five (65) new homes being built in the  
191 coming year. She expressed concern regarding whether or not the town's infrastructure could  
192 support this growth.

193  
194 Ms. Winona-MacKinnon revisited the idea of raising the impact fees to support this. Mr. Morin  
195 noted that a good portion of impact fees goes to the school, which does not leave much for the  
196 other town departments that would need the extra funding. Mr. Viel noted that impact fees can  
197 only be used for certain things, which is why it is important for there to be a plan in place for  
198 them.

199  
200 Mr. Bonser expressed concern that tax rates might increase if the town stopped any further  
201 development. Mrs. Bascom noted that they would not be stopping development but delaying it  
202 for a period of time in order for the town's infrastructure to catch up to the town's growth.

203  
204 Mr. MacKinnon noted that, per the RSA associated with a moratorium, the town has to document  
205 the steps that it will take in order to meet the needs. He expressed concern that this might create a  
206 lot of additional work. He noted that there is another RSA that allows municipalities to limit the  
207 growth of the town without stopping it entirely.

208  
209 Mr. Morin asked if this would need to go before the voters of the town as a warrant article. Mr.  
210 Viel reported that it would.

211  
212 Mr. Viel asked Mr. Sylvia if he has been through this process with other towns. Mr. Sylvia  
213 replied that he has not been through the process but that he has heard of other towns going  
214 through it. His understanding is that it is very convoluted and requires a lot of legal guidance.

215  
216 Mrs. Bascom reported that she has heard of towns approving building permits by a lottery  
217 system.

218  
219 Mr. Sylvia noted that there have been instances of impact fees being returned to residents. Mr.  
220 Morin reported that this is because of the amount of money that the school gets, and that after so  
221 many years, if there is no new construction, the money has to be returned to the homeowner.

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Mr. Haney asked if it would be possible to designate impact fees for a project that has an ongoing component, like roadway systems. Mr. Sylvia reported that would not be possible because by law, impact fees have to go to a specific, identifiable project. Mr. Viel noted that the Planning Board is limited by the language of the RSA as well as by the voters.

Mr. Viel noted that the RSAs being addressed are 674:22 Growth Management; Timing of Development, 675:4 Method of Enactment by Petition, and 674:23 Temporary Moratoria and Limitations on Building Permits and the Approval of Subdivisions and Site Plans. He advised that if the third option is something that the town is looking to do, they would need to start the process sooner rather than later. Mr. MacKinnon stated that the CIP Committee should look at this when they start up in the fall to create the justifications for a potential moratorium.

Mrs. Bascom noted that RSA 675:4 states that a petition needs to be signed by twenty-five (25) people in order to request an amendment to the *Zoning Ordinance*, which would then go before voters, and that this may be a quicker and easier way of putting a hold on development.

***Housing Shortage***

Mr. Viel posed a couple of questions regarding the housing shortage in New Hampshire:

1. How does this relate to our *Zoning Ordinances*?
2. What can Planning Boards do to alleviate the problem?
3. Do our current *Ordinances* contribute to the problem?

Mr. Viel recalled that Land Use boards try to strike the balance between the current community and potential newcomers to the community.

Mrs. Bascom stated that Nottingham needs more affordable housing. Mr. Morin reported that the town's infrastructure cannot and the *Zoning Ordinance* wasn't written to support affordable housing. He stated that an open-space subdivision is the closest thing to creating affordable housing. Mrs. Bascom suggested that apartments would provide more affordable housing. Mr. Morin noted that per the *Zoning Ordinance*, so much land is needed to construct an apartment building. It was noted that ADUs help in this situation.

Mr. Viel reported that he has learned through various meetings he has attended over the last couple of years that cities will ultimately be the ones to alleviate the housing crisis, as they have the infrastructure and desirability to do so. As far as what Nottingham can do to address this, the least restrictive thing in the *Zoning Ordinance* are multi-family conversions. This allows for older, farmhouse-style buildings to be converted to multi-family units.

Mr. Haney suggested "relaxing" the *Zoning Ordinance*. Mr. Morin noted that this would make it easier to build, which is the opposite of the conversation they were just having about town infrastructure and its ability to support growth.

Mr. Viel noted that this is a good discussion to have further when the *Master Plan* is updated.

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***Accessory Dwelling Units***

Mr. Morin suggested “loosening” the regulations surrounding ADUs, as this helps to improve the housing shortage situation without the Planning Board approving new subdivisions. Mr. Viel noted that the Board has been seeing people seeking to build detached ADUs, which at this time are more regulated in the *Zoning Ordinance* than attached ADUs. Discussion was had regarding changing these regulations to make it easier for people to build detached ADUs. It was noted that an ADU could still be limited to one bathroom so that “they don’t get too out-of-hand”. While the RSA states that the Planning Board cannot limit the ADU to one bedroom, the town’s *Ordinance* does limit it to “so many square feet”.

Applications for variances due to non-conforming lot sizes and/or shape in the lake areas are often for relief from septic and/ or structural setback regulations. Mr. Viel suggested that the Board consider the lake areas as a separate town district.

Mr. Sylvia observed that ADUs continue to come before the Zoning Board and that most of the time the variance is approved. He stated that because this is happening again and again, it means that either the *Ordinance* is too strict or the Planning and Zoning Boards have different philosophies. He suggested that either the Planning Board change the *Ordinance* or the Zoning Board look more closely at each case. This goes for ADUs as well as other variance requests that are sought.

Mrs. Bascom reported that the Zoning Board has put the most weight on the hardship piece of an application. More often than not, the size and shape of a lot makes it difficult to stay within the setbacks or other *Ordinance* requirements.

Mr. Sylvia suggested that a review be done by looking at all the denials from the last year or two and for what and see how many have been overturned. Mr. Viel reported that he would like to see what requests are going before the Zoning Board.

Mr. Sylvia noted that if the Ordinances are made to be less strict, the town will see more building permits being sought.

Noting that time was running out, Mrs. Bascom asked if the Boards should plan to have another meeting in which they continue the discussions they’ve started tonight. Mr. Viel reported that the Planning Board would be holding a warrant article work session in the next month or two and would appreciate input from the Zoning Board at that time.

Zoning Board members discussed making their scheduled September 12, 2023 meeting a workshop, as they do not have any cases to hear.

**Public Comment**

None.

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312

313 **Adjourn**

314

315 *Mrs. Bascom made the motion to adjourn. The motion was seconded by Ms. Mooney. The*

316 *motion was unanimously approved by a vote of 11-0-0.*

317

318 The meeting was adjourned at 9:09 PM.

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322

323

324 Respectfully submitted,

325 Rachel Russell Leed, Transcriber