



TOWN OF NOTTINGHAM, NH - PLANNING BOARD

NOTTINGHAM TOWN OFFICE • 139 Stage Rd., P.O. Box 114 • Nottingham, NH 03290
<https://www.nottingham-nh.gov/planning-board>
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Plan Review

PROJECT NAME: Tandy Subdivision		CASE NUMBER: 21-012-SUB
PLAN REVISION DATE:		
MEETING DATE: 7-28-2021 8-11-2021	APPLICANT(s): Nathan Tandy 22 Gile Road Nottingham, NH 03290 ntandy25@gmail.com (603) 486-8414	APPLICATION TYPE: <input checked="" type="checkbox"/> (SD) Subdivision <input type="checkbox"/> (EX) Excavation <input type="checkbox"/> (SP) Site Plan <input type="checkbox"/> (HO) Home Occ. <input type="checkbox"/> Sign <input type="checkbox"/> (LLA) Lot Line Adjustment
APPLICATION STATUS: <input checked="" type="checkbox"/> Accepted: 7/28/2021 65 days expires: 9/30/2021 <input type="checkbox"/> Approved: <input type="checkbox"/> Extension to:	APPLICANT'S REP: Peter Landry, LLS Landry Surveying LLC 248 Mill Pond Road Nottingham, NH 03290 (603) 679-1387	REVIEWED BY: James Burdin Interim SRPC Circuit Rider July 26, 2021
EXECUTIVE SUMMARY		
8/10/2021 REVISIONS IN RED		
<p>The existing 8.075-acre parcel is located on Gile Rd, east of Stage Rd. The applicant proposes to subdivide into two lots, including one lot classified as a "back lot" per section 14.2.4 of the Nottingham Subdivision Regulations</p> <p><u>Proposed lot 10</u> 3.067 acres 250 ft. frontage Contains existing house and driveway State subdivision required</p> <p><u>Proposed lot 10A</u> Back lot 5.008 acres 57 ft. frontage (20 required) Note: Section 14.2.4 does not permit the "neck lot area" to be used for minimum lot size calculations. Please provide acreage for lot 10A that excludes the neck lot area. Note: Subdivision Regs Section 14.2.4 requires back lots to be deed restricted to preclude further subdivision. ZO Article IV T.3 restricts back lot subdivisions to subdivisions of exactly two parcels and stipulates that NEITHER parcel may be further subdivided. No such deed language or plan notes appear to have been provided.</p> <p>NOTE: Identified frontage of new lots (250' + 57') does not equal identified frontage of the parent lot (317'). Please confirm lot frontages (likely a typo 6 changed to 5).</p>		



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BACKGROUND	
TAX MAP/LOT:	Map 28 / Lot 10
AREA (ACRES, SQUARE FEET):	8.075 ac
EXISTING LAND USE:	Single-family residential
STEEP SLOPES:	Intermittent, as identified on plan set
ROAD ACCESS (FRONTAGE):	Gile Rd (317 ft)
CLOSEST INTERSECTION:	Gile Rd and Stage Road
ZONING DISTRICT(S):	Residential – Agricultural
OVERLAY DISTRICTS:	<input type="checkbox"/> Aquifer <input checked="" type="checkbox"/> Wetlands <input type="checkbox"/> Floodplain
LOCATED ON A SCENIC ROAD?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
FEMA 100-YEAR FLOOD HAZARD ZONE?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
WATER BODIES:	<input type="checkbox"/> Shoreland Protection <input type="checkbox"/> Lamprey River LAC
OTHER PERMITS AND APPROVALS	
<input type="checkbox"/> Special Exception(s)	<input type="checkbox"/> Waivers <input type="checkbox"/> Variance(s) <input checked="" type="checkbox"/> Easement(s) <input type="checkbox"/> Excavation Permit
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Condo Documents <input checked="" type="checkbox"/> State Permits <input type="checkbox"/> Road Cut <input type="checkbox"/> Road Bond
STATUS NOTES: No waivers requested.	
COMPLETENESS NOTE: Gile Road is a scenic road (see Appendix 1 of the Subdivision Regulations). This is acknowledged in the application materials, but was not acknowledged on the public hearing notice or agenda listing for this case. The board should consider whether adequate notice was provided for this case.	

COMPLETENESS/APPLICATION ACCEPTANCE

1. All information needed to complete the application review has been submitted
 - (as articulated in Subdivision Regulations section 8.2)
2. Confirm all abutters noticed & fees paid (escrow).
3. Confirm signature and seal of registered surveyor, engineer or architect.
4. Confirm signed application received.

STAFF TECHNICAL COMMENTS AND MEETING REVIEW HISTORY

Subdivision Application

1. Items of note:
 - a. The existing house is depicted within the 50' side setback. Per the property card, the house was constructed in 1972, predating the enactment of the current Nottingham Zoning Ordinance Regulations in 1980. It would therefore be a pre-existing non-conforming structure; the proposed



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subdivision does not alter this property line, therefore I would not interpret the structure as becoming more non-conforming. **NOTE: the issue of non-conformity was raised in regard to this application, especially in relation to the requirements of ZO Article II Section 2.d (see below). To clarify, the Zoning Ordinance distinguishes between pre-existing non-conforming uses, lots, and structures. In this case the structure is non-conforming due to its location within the setback; the lot itself is conforming.**

2. Elements in need of clarification, additional information, or provision before approval:
 - a. Section 14.2.4 does not permit the “neck lot area” to be used for minimum lot size calculations.
 - i. The applicant should provide acreage for lot 10A that excludes the neck lot area. I suggest simply continuing the rear property line of proposed lot 10 in a straight line for the purpose of determining the limits of the neck lot area to be excluded.
 - ii. Rough calculations (assuming a rectangle of 456’ X 342’ using the measurements on the plan) estimates roughly 3.5 acres, which would satisfy minimum lot size.
 - b. The applicant proposes an access easement across lot 10 for the purpose of accessing the back lot, and a note identifies the bounds of that easement and indicates that the easement shall be recorded upon the sale of lot 10A
 - i. **Zoning Article IV Section T.3.c states that the access road to the back lot must be at least twelve feet wide and must be owned in fee simple by the owner of the lot to be accessed. The proposed driveway easement would not constitute fee-simple ownership of the access to the back lot, and the back lot would therefore be in violation of this provision if it were ever to be conveyed separately from the front lot. Therefore, in my opinion, the applicant would require a variance to Section T.3.c prior to final approval to allow a driveway easement instead of access contained through fee-simple ownership as part of the back lot.**
 1. **See also ZO Article II Section C.2.c regarding driveways and the accepted location of shared driveways along a shared boundary.**
 - ii. I recommend that the language of the easement be provided for the board’s consideration and inclusion in the file. The board may consider whether third-party review of easement language is necessary.
 - iii. The board may consider whether the timing of recordation to coincide with the sale is appropriate, or whether another deadline is preferable.
 - iv. The language included on the plan appears sufficient to indicate an intent to convey an easement and as such would be legally enforceable; however, the board should consider whether to explicitly list recordation of easement language as a condition of approval so that it would appear in a Notice of Decision for ease of reference.
 - c. Section 14.2.4 of the subdivision regulations stipulates that back lots must be deed restricted to preclude further subdivision. **Article IV T.3 restricts back lot subdivisions to subdivisions of exactly two parcels and stipulates that NEITHER parcel may be further subdivided, implying that both should be deed-restricted to facilitate enforcement.** I did not identify any such deed restriction included with the application materials or any note to that effect.
 - i. I recommend that sample deed language be provided for the board’s consideration and inclusion in the file. The board may consider whether third-party review of easement language is necessary.



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- ii. A note should be added to the subdivision plan identifying lot 10A as unsubdividable. While this note would indicate an intent to preclude further subdivision and as such would be legally enforceable, I recommend listing recordation of this language as a condition of approval to ensure recordation and so that the condition appears in a Notice of Decision for ease of reference.
 - d. Zoning Article II Section C.2.d requires each lot to contain either a 200' X 200' square or "a thirty thousand square foot contiguous area lot envelope in which a house and septic system shall be placed to meet all existing setback ordinances, consisting of upland soils".
 - i. The applicant proposes a driveway easement through this area on the front lot. While a driveway is something you would normally expect to be within the 30k area suitable for building, the issue was the driveway *easement*. The easement area is no longer suitable for building because it must provide access to the rear lot – any construction would violate the back lot's rights to access. If that easement bisects the required 30k sf area such that neither resulting shape complies, it is creating something new and noncompliant.
 - ii. The applicant should provide calculations for the required contiguous area on either side of the driveway. If the applicant is unable to provide the required 30,000 sf envelope on one side of the driveway easement, the applicant could either relocate the proposed driveway easement or seek a variance from the ZBA (note comments above – a driveway easement is likely to require multiple variances already).
 - iii. Zoning Article II Section C.2.d exempts pre-existing non-conforming lots provided they were legal under prior versions of the ordinance. As stated above, there is an existing non-conforming structure on this lot, but the parent lot for this subdivision appears to be compliant with this requirement. Therefore, the lot itself would not have any pre-existing non-conforming rights that would exempt it from compliance with this section.
3. Notes changes, corrections, and additions:
- a. Frontage – the plan identifies a total frontage of 317' on the parent parcel (which matches the town GIS), but appears to label the proposed frontages as 250' and 57', totaling only 307'. Please explain the discrepancy or correct the frontages to match.
 - b. Ensure that the wetland scientist's stamp is provided in the final planset and that wetlands classifications match the methodologies listed in the Zoning Ordinance and Subdivision Regulations. If a different methodology is proposed please explain how the delineation is likely to differ from the required methodology – additional waiver and/or variance requests may be required to use an alternate methodology.

HEARING PROCEDURES

1. Convene hearing
2. ~~Board, applicant and abutter comments on acceptance (determine completeness) completed on 7/28~~
3. ~~Consider and determine whether the application is a development of regional impact (Vote Required) completed on 7/28?~~
4. Presentation by applicant/board questions
5. Abutter testimony
6. Board discussion, comments, questions
7. Act on approval, conditions, denial or continue to a date certain



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CONDITIONS OF APPROVAL

- Plan copies with professional seals & signatures
 - Surveyor
 - Wetlands Scientist
- Original Mylar with professional seals & signatures
- Electronic submission per regulations (As-builts as required)
- All fees paid
- Additional items to be determined as part of the plan review hearing (List):
 -
- Changes to Plat as detailed in minutes and this report:
 - See Above
- Others (List):
- State Permits –
 - Curb-cut,
 - Subdivision (Sub Surface/Septic),
 - Wetlands – Dredge and Fill,
 - Alteration of Terrain
 - Shoreland Protection