

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 19, 2020

1 **Members Present:** Bonnie Winona-MacKinnon, Chair; Teresa Bascom, Vice-chair; Terry
2 Bonser; Raelene Shippee-Rice; Peter White; Kevin Bassett, Alternate

3 **Members Absent:**

4 **Others Present:** JoAnna Arendarczyk, Land Use Clerk; Morrison, Real Estate Agent for Paul
5 Langdon; Paul Langdon, Applicant; Christian Smith, Surveyor; Caren Rossi (38 West Mill pond
6 Road, Lee, NH)

7 **Call to order:** 7:00pm

8

9 • **Emergency Order #23**

10 Chair explained that due to the COVID-19/Coronavirus crisis and in accordance with Governor
11 Sununu's Emergency Order #23 pursuant to Executive Order 2020-04 boards are authorized to
12 meet electronically.

13 • **Method of voting agreed to by the Board:**

14 As all members are visible during this Zoom meeting the Board agreed to Vote by raising their
15 Right hand on screen which was visible by all who were in attendance.

16

17 *Italic font below notes public hearing notice language*

18 **Public Hearing**

19 *Case 20-005-VA- Application from Langdon Construction, LLC for a Variance request from*
20 *Article III Section 5.a of the Nottingham Zoning Ordinance to allow the frontage subdivision*
21 *application to proceed with the Nottingham Planning Board without a Hydrogeologic study*
22 *where the ordinance stated one shall be required. The property is located at 209 Mill Pond Rd.*
23 *and Kelsey Road in Nottingham, NH and is identified as Tax Map 24 Lot 141 Sublot 2.*

24 Christian Smith, Surveyor, introduced his client and applicant Paul Langdon as well as the Real
25 Estate Agent Mr. Morrison. Mr. Smith shared his screen with the Board to accurately note the
26 aquifer overlay and the test pit locations on the plans (file) with the Board. The plans have been
27 discussed with GeoInsight and the determination was that the aquifer overlay is likely inaccurate
28 due to the test pits results. The water is likely running from the site.

29 Mr. Smith highlighted the fact that despite the probability of not being in the aquifer overlay the
30 subdivision is being designed as if it were, with regards to the acreage and the location of the
31 septic systems.

32 Mr. White asked Mr. Smith how much the study would cost. Mr. Smith replied \$15,000.00 due
33 to the number of wells to be drilled as well as the time put into studying the results. Mr. White
34 also questioned if the test pits would have given different results if they were done in the spring
35 rather than the late fall as they were done. Mr. Smith informed Mr. White that the soil profiles
36 would not have changed that quickly. Mr. White stated that he drove by the site and noted
37 wetlands and is concerned about the environmental impact in that area. Mr. Smith responded to
38 that concern by stating that aquifers are not found in wetlands; the soils of an aquifer are deep
39 coarse sands.

40 Mr. Bassett commented on the staff review memo dated March 6, 2020 (file) done by Stefanie
41 Casella (SRPC Planner contracted with the Nottingham Planning Board). He asked Mr. Smith if
42 the recommendation from Ms. Casella to send the application to CMA Engineers for review had
43 been done. Mr. Smith stated he was not aware of that being done, however an abutter, who is a
44 retired civil engineer spoke at the Planning Board meeting and stated that the soils from the test
45 pits are not that of soils found in an aquifer zone.

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 19, 2020

46 Mr. Bassett asked if the ZBA was going to consider the recommendation for peer review to be
47 done by CMA seeing it had not been done.

48 Mr. Bonser stated that the maps likely depict the Aquifer Zone inaccurately. The maps were
49 probably developed in the 1980's- 1990's, without scientific studies to back them up. He stated
50 that the soils from the test pits are not deep enough to be considered in the Aquifer District, the
51 water tables are too high.

52 Mr. Langdon reminded the Board that they are not being asked to determine if the project is in
53 the Aquifer District. The Subdivision is being designed as if it were confirmed as such. The
54 request is to grant a Variance to the Hydrogeological Study requirement.

55 Mrs. Bascom commented on a few things:

- 56 1. The study would not show much at this point as there is a current septic
- 57 2. No change in the subdivision plan if the study is done- the applicant isn't looking for a
58 waiver of the requirements of the Aquifer Zone
- 59 3. Planning Board still has further say on the subdivision- the ZBA only determines if the
60 study is required

61 Mr. Smith explained in greater detail the soil findings of the test pits done. The results being that
62 they were too fine and more silt like soil which is atypical of Aquifer Zones which have more
63 gravel soils that drain well.

64 Mr. Bassett maintained his position that the soil tests should go for peer review as recommended
65 by Ms. Casella.

66 Mr. White added that the study should be done as well, science should be considered not
67 opinions.

68 Mr. Smith read the responses to the five (5) criteria as found in the application (file).

69 **Public Comment:** Caren Rossi, resident of Lee on West Mill Pond Road and Code
70 Administrator for the Town of Lee, NH- comments:

- 71 1. No greater impact than the Marston Property ball fields will be
- 72 2. The study is not necessary because the requirements to build in the Aquifer Zone will be
73 met
- 74 3. The subdivision will clean up the property and add value to the surrounding area

75 Mr. White added that he is concerned about chemicals from new properties as well as the ball
76 fields. He asked if it is an "unnecessary hardship to have a developer spend \$15,000.00 to
77 protect the environment?"

78 Mr. Morrison (28 Spruce Street Exeter, NH) Mr. Langdon's Real Estate Agent, asked the Board
79 to consider the fact that if the study is required and it is found that the parcel is deemed not to be
80 in the Aquifer Zone, than they could add another lot or two to the subdivision.

81 Mrs. Bascom echoed the words of Mr. Morrison.

82 Mr. White countered that nothing should be determined until the facts and scientific research is
83 presented and that includes the Hydrogeological Study.

84 Mr. Bassett stated that he thinks a peer reviews opinion on this would be value added and that if
85 the study were done it would help firm up the lines of what may be an outdated map depicting an
86 inaccurate Aquifer Zone.

87 Mr. Langdon stated that their subdivision application is environmentally minded as shown in the
88 subdivision proposal meeting the requirements for the Aquifer Zone.

89 Ms. Shippee-Rice asked if a specialized septic system could be installed regardless of the study?

90 Mr. Langdon stated that hadn't been considered yet due to the science of the soils in that
91 location. However, he will look into the suggestion.

NOTTINGHAM ZONING BOARD OF ADJUSTMENT
May 19, 2020

92 **Public Hearing Closed:** 8:20pm

93 Mr. Bassett re-iterated his recommendation to forward the application to CMA for review.

94 **Motion Made by:** Ms. Shippee-Rice to follow the recommendation made by the planner in the
95 letter submitted to the to the ZBA. To forward the application to CMA for review within 30
96 days, by June 17, 2020.

97 **Seconded by:** Mr. White

98 **Roll Call Vote:**

Bonnie Winona-MacKinnon	Nay	Terry Bonser	Nay
Teresa Bascom	Nay	Raelene Shippee-Rice	Aye
Peter White	Aye		

99 **2-3-0 Motion Failed**

100

101 **Motion Made by:** Mrs. Bascom to approve the request for case #20-005-VA Application from
102 Langdon Construction, LLC for a Variance request from Article III Section 5.a of the
103 Nottingham Zoning Ordinance to allow the frontage subdivision application to proceed with the
104 Nottingham Planning Board without a Hydrogeologic study. The property is located at 209 Mill
105 Pond Rd. and Kelsey Road in Nottingham, NH and is identified as Tax Map 24 Lot 141 Sublot 2.

106 **Seconded by:** Mr. Bonser

107 **Roll Call Vote:**

Bonnie Winona-MacKinnon	Aye	Terry Bonser	Aye
Teresa Bascom	Aye	Raelene Shippee-Rice	Aye
Peter White	Nay		

108 **4-1-0 Motion Passed**

109 The applicant was informed of the 45-day appeal window.

110 **Public Meeting**

111 • **Review and Approve By-Laws and Rules of Procedure**

112 Ms. Shippee-Rice had edits to share but had not sent them to the Land Use Clerk. She agreed to
113 send them for review. The approval of the By-Laws and Rules of Procedure was tabled to the
114 next meeting.

115 **Staff/ Board Members Update**

116 Currently there are no cases for June. The Board agreed to cancel the meeting for June if there
117 are no cases to be heard by May 21, 2020.

118 **Minutes**

119 January 21, 2020

120 Board member Mr. Bassett's name needed to be edited.

121 **Motion Made by:** Mrs. Bascom to approve the January 21, 2020 minutes as written.

122 **Seconded by:** Mr. Bonser

123 **Roll Call Vote:**

Bonnie Winona-MacKinnon	Aye	Terry Bonser	Aye
Teresa Bascom	Aye	Raelene Shippee-Rice	Aye
Peter White	Nay	Kevin Bassett	Abstain

124 **4-1-1 Motion Passed**

125

126 April 21, 2020

127 One edit requested for line 99- to state that Mr. Bassett has started clearing

128 **Motion Made by:** Mrs. Bascom to approve the April 21, 2020 minutes as amended.

For the Nottingham Zoning Board of Adjustment ~ JoAnna Arendarczyk; Land Use Clerk

NOTTINGHAM ZONING BOARD OF ADJUSTMENT
May 19, 2020

129 **Seconded by:** Mr. Bonser

130 **Roll Call Vote:**

Bonnie Winona-MacKinnon	Aye	Terry Bonser	Aye
Teresa Bascom	Aye	Raelene Shippee-Rice	Aye
Peter White	Abstained	Kevin Bassett	Aye

131 **4-0-1 Motion Passed**

132

133 **ADJOURNMENT**

134 **Motion Made By:** Mrs. Bascom

135 **Seconded By:** Mr. Bonser

136 **Vote:** 6-0-0 **Motion Passed**

137 **Adjourn at:** 8:40pm

DRAFT