

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

January 19, 2021

Approved: March 16, 2021

Members Present: Bonnie Winona MacKinnon, Chair; Teresa Bascom, Vice-chair; Terry Bonser; Raelene Shippee-Rice

Members Absent: Peter White; Kevin Bassett, Alternate

Others Present: JoAnna Arendarczyk, Land Use Clerk; Christopher R. Berry; Berry Surveying; Scott Frankiewicz, Surveyor;

Abutters/ Residents Present: Keith Gillespie; Steven Curwood; Fredericks Fernald; David Hanson

Call to order: 7:02pm

Roll Call: To account for members present

In anticipation of the extension of Executive Order 2020-17, the Nottingham Zoning Board will be holding a virtual hearing. Access to the meeting is given through Zoom. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in the meeting.

Public Hearings

• Case 21-001-VA

Application from Jeffrey Cole Builders, LLC, represented by NHLC (Scott R. Frankiewicz), requesting a Variance from Article II Section E.1 of the Nottingham Zoning Ordinance to permit residential uses in the Commercial/Industrial Zone (Route 4). The property is located at Route 4/Smoke Street/Kennard Road in Nottingham, NH and is identified as Tax Map 6 Lot 16.

(Italics notes Public Hearing Notice language as sent to abutters and the Union Leader)

Scott Frankiewicz, Surveyor representing the applicant, shared his screen to point out the parcel and the proposed new lots. The original application has changed from two to one 10+ acre proposed commercial lot. However, the proposed residential lots for the Variance request have not changed.

Mrs. Bascom stated that her issue with this request comes from the fact that she was on the Planning Board when the Board made the decision to propose the rezoning of the Route 4 corridor it was to preserve the remaining developable land for Commercial/ Industrial (C/I). That land that is prime for C/I was being taken up by residential development when it was mixed zoning in the past. She added that in reviewing the case she noted five (5) lots were left on the Route 4 corridor that could be developed for C/I.

Mr. Bonser stated that though he agrees that C/I is needed the lot is not ideal to be entirely used for it due to the powerlines and wetlands.

Ms. Winona Mackinnon stated that she also agrees and added that this parcel also abuts a residential road making it unique in that way as well.

Public Comment Opened:

Stephen Curwood, abutter, stated that he supports this request. He agrees that C/I is needed but that there are aspects of the parcel that have been noted making it better used as both C/I and residential.

Keith Gillespie, abutter, requested clarification regarding the location of the proposed residence nearest his property. His concern was future well issues due to the proximity of the proposed residence. Mr. Frankiewicz outlined the proposed location and assured him that tests are done to support a good location for the well. This doesn't mean that wells won't go dry during a drought, just that the land can support the additional well during a normal season.

Public Hearing Closed: 7:33pm

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Motion Made by: Ms. Winona MacKinnon to approve Case 21-001-VA, application from Jeffrey Cole Builders, LLC, as represented by NHLHC (Scott R. Frankiewicz), for a Variance from Article II Section E.1 of the Nottingham Zoning Ordinance to permit residential uses in the Commercial/Industrial Zone (Route 4). The property is located at Route 4/Smoke Street/Kennard Road in Nottingham, NH and is identified as Tax Map 6 Lot 16.

CONDITION: This approval is for the four (4) residential lots on Kennard Rd./Smoke St. as presented.

Seconded by: Mr. Bonser

Roll Call Vote: 3-1-0 Motion Passed

Winona MacKinnon- Y	Bascom- N
Bonser- Y	Shippee- Rice- Y

The Chair advised the applicant of the 30-day appeal window.

Case Closed: 7:40 pm

• Case 21-002-VA

Application from Owl Ridge Builders, LLC, represented by Christopher Berry, Berry Surveying & Engineering, requesting a Variance from Article II Section C.2.A of the Nottingham Zoning Ordinance to permit a lot with less than the required minimum lot size of 2 acres. The property is located at Stevens Hill Road and Deerfield Road in Nottingham, NH and is identified as Tax Map 52 Lot 10.

Chris Berry, Surveyor representing the applicant, shared his screen to present the proposed subdivision plan as well as the tax map to give a clear representation of the location. Mr. Berry outlined the reasons for the request as noted in the narrative. He stated that he chose to request one nonconforming lot versus two non-conforming lots to simplify matters. The non-conforming lot can still meet all requirements of a two-acre lot. The larger lot needed more than two acres due to the geographical issues restricting the 30K buildable area without the added acreage.

Mrs. Bascom stated that the applicant should have been aware that the parcel may not be subdivided into two lots as the deed clearly stated that it was four (4) acres +/- and that she takes issue with creating nonconforming lots.

Ms. Winona Mackinnon suggested a conditional approval that would also go on the plan that states the non-conforming lot is allowed only for subdivision purposes but all other zoning requirements for a conforming lot must be met in perpetuity.

Mr. Berry agreed to the condition being noted on the plan and in the deed.

Public Comment Opened: 7:58pm

No Comments

Mr. Berry presented the five (5) criteria (file)

Public Hearing Closed: 8:05pm

Mr. Berry was offered the opportunity to present with a full board at a later date. He chose to continue to the vote.

Motion Made by: Mr. Bonser to approve Case 21-002-VA- Application from Owl Ridge Builders, LLC, represented by Christopher Berry, Berry Surveying & Engineering, for a Variance from Article II Section C.2.A of the Nottingham Zoning Ordinance to permit a lot with less than the required minimum lot size of 2 acres. The property is located at Stevens Hill Road and Deerfield Road in Nottingham, NH and is identified as Tax Map 52 Lot 10.

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CONDITION: This Variance is for subdivision purposes only. All other zoning would need to meet the two (2) acre requirements.

Seconded by: Mrs. Bascom

Roll Call Vote: 3-1-0 Motion Passed

Winona MacKinnon- Y	Bascom- Y
Bonser- Y	Shippee- Rice- N

The Chair advised the applicant of the 30-day appeal window.

Case Closed: 8:10pm

Chair requested a five-minute break.

Resumed at 8:15pm

Public Meeting

• Request for Rehearing of Case 20-014-VA:

Application from Robert Diberto requesting a Variance from Article III Section B.4 of the Nottingham Zoning Ordinance to permit filling 6,717 SF of a PF01/4eg wetland as part of the road construction for a proposed subdivision. The property is located on Mitchell Road in Nottingham, NH and is identified as Tax Map 7 Lot 1 Sublot N.

Ms. Winona MacKinnon read the request, in its entirety, from Mr. Stephen Curwood into the record. She then offered Mr. Curwood the opportunity to speak to his request. Mr. Curwood declined to speak.

With permission to speak, Mr. Berry stated that the request for a rehearing must have new information and it was his opinion the request did not have any new information.

The Board discussed the request and considered postponing the decision for up to 30 days to allow Mr. Bassett the opportunity to be in attendance as he was a voting member for the case.

Motion Made by: Ms. Shippee-Rice to rehear Case 20-014-VA to consider comments made in the letter in further detail.

Seconded by: Ms. Winona MacKinnon

Roll Call Vote: 2-2-0 Motion Failed

Winona MacKinnon- Y	Bascom- N
Bonser- N	Shippee- Rice- Y

Ms. Winona MacKinnon stated that Town Counsel will be contacted tomorrow to determine if the offer for a full board to hear the request for a rehearing is required.

Mr. Curwood stated for the record that it is his belief that he has the right to a full board.

Mr. Berry stated that for there to be a rehearing there must be new evidence/material.

Mr. Curwood stated that the option for outside review that was not presented.

The consideration for a rehearing will continue on January 28, 2021 if counsel advises that Mr. Curwood has a right to a full board. The Land Use Clerk will communicate via e-mail with Mr. Curwood, the applicant, and the Board to set up the meeting on Zoom if the rehearing is reconsidered with a full board on January 28, 2021.

Discussion on rehearing ended: 9:00pm

Minutes

December 7, 2020- Site Walk

December 14, 2020- Site Walk

December 15, 2020

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132 **Motion Made By:** Mrs. Bascom to approve all the listed minutes as edited

133 **Seconded By:** Mr. Bonser

134 **Roll Call Vote:**4-0-0 **Motion Passed**

Winona MacKinnon- Y	Bascom- Y
Bonser- Y	Shippee- Rice- Y

135

136 **ADJOURNMENT**

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

138 **Seconded By:** Ms. Shippee- Rice

139 **Roll Call Vote:**

Winona MacKinnon- Y	Shippee- Rice-Y
Bonser- Y	Bassett- Y

140 **Vote:** 4-0-0 **Motion Passed**

141 **Adjourn at:** 9:03pm

142 For the Nottingham Zoning Board of Adjustment

143 JoAnna Arendarczyk; Land Use Clerk

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