

Nottingham Zoning Board Meeting

4/19/2022

Official Minutes

**Call to Order**

**Members Present:** Chair Terry Bonser, Vice Chair Teresa Bascom, Kathy Mayo, Alternate Kevin Bassett

**Absent:** Bonnie Winona MacKinnon, Raelene Shippee-Rice, Romeo Danaïs

**Alternate Seated and Voting:** Kevin Bassett

**Others:** Kevin Lemieux, Land Use Clerk; Edward Sweet, Applicant; John Morin, Abutter; Andrew Stenberg, Abutter

*Mr. Bonser opened the meeting at 7:01 PM.*

Mr. Bonser read the rules of the Zoning Board hearings.

Mr. Bonser sat alternate, Mr. Bassett, for Ms. Winona MacKinnon

**Public Hearing:**

*Case# 22-002-VA*

*Application from Edward Sweet, requesting a Variance from Article II Section C.7.b.10 of the Nottingham Zoning Ordinance to permit an existing structure to be considered an Accessory Dwelling Unit (ADU) and allow for a new, detached residential structure to be built. The property is located at 1 Whites Grove Road in Nottingham, NH and is identified as Tax Map 63 Lot 86.*

Mr. Sweet sat at the applicant table and gave a brief description on his variance request. He stated that he wishes to build a new home on his property while keeping the current structure in place. The new home would be larger than the existing structure. He is seeking a variance to allow the small, existing home to be considered an Accessory Dwelling Unit (ADU). The ADU would not be attached to the new structure.

Mr. Bonser asked Mr. Sweet to read his five criteria questions from his application. He also informed the applicant that there are only four (4) Board members present. He gave Mr. Sweet the option to have his case heard at a later date were five (5) members would be present. Mr. Sweet declined the offer and agreed to move forward with the hearing. Mr. Bassett clarified with Mrs. Bascom that a two-two tie vote would result in a denial.

Mr. Sweet read his five criteria for the variance request. His answers were as follows:

1. The would be no changes to the land other than a few trees removed.
2. By building the larger home after the existing smaller structure, the result would be the same as if the builds were reversed.
3. Due to employment change, the applicant needs to move his family of six (6) back to Nottingham. The current house is too small to accommodate the move.
4. The existing structure is old. A newer structure would increase property values.

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- 40           5. The primary residence is being built after the smaller, existing structure is in  
41           place. The new primary residence will be owner occupied. The existing structure  
42           meets the criteria for an ADU. The cost associated with moving existing structure  
43           is prohibitive and time consuming. The time constraints would restrict when the  
44           applicant's family could move in.  
45

46 Mrs. Bascom asked the applicant why he needed the buildings to be detached. Mr. Sweet replied  
47 that the current Zoning requirements would not allow for such a build. Mrs. Bascom asked for  
48 clarity on the 4.63 acre-lot. Mr. Sweet explained that the property went from two (2) lots to one  
49 (1) lot in 2019. He added that the current structure is too close to the road to build.  
50

51 Mr. Bonser asked if a new septic design was planned. Mr. Sweet answered that he will have a  
52 new, state approved septic installed. He added that the current structure is very small with one  
53 bedroom and one bathroom.  
54

55 Mr. Bassett pointed out that the Zoning Ordinance section reference identification on the  
56 application did not match with a reference identification in the current Zoning Ordinances. Mr.  
57 Lemieux discovered that the identifier on the Building Permit Denial Letter was inaccurate. The  
58 Denial Letter quoted Article II, Section C.3.b.10. The correct identifier is Article II, Section  
59 C.7.b.10.  
60

61 Mr. Bassett read in the Zoning Ordinance that the ADU must be attached with a door. He added  
62 that it would be easier for him to approve the application if the ADU was attached to the new  
63 structure. He asked if approved, would the smaller structure always be considered an ADU.  
64 Mrs. Bascom replied that it would be classified as such. Mr. Bassett said that the purposed of an  
65 ADU was for elderly support and not a rental property. Mrs. Bascom read allowed a state law  
66 that does not allow for a town to limit ADU residents to inter-family relationships only. She  
67 further pointed out that state law allows for a detached ADU.  
68

69 Mr. Bonser offered an abutter and current Select Board member, Mr. Morin, to speak. Mr.  
70 Morin reflected on his time on the Zoning Board and crafting ADU language for the Zoning  
71 Ordinance. He indicated that the original intent of the ADU language was for attached units. He  
72 added that the applicant's lot has more than the four (4) acre minimum requirement to become  
73 two (2) separate lots.  
74

75 Mr. Bassett asked Mr. Sweet if he ever considered subdividing the land. Mr. Sweet replied that  
76 he has not. Mr. Morin added that since the land was recently part of a subdivision, the applicant  
77 could not further subdivide the land as there is a time restriction for doing so.  
78

79 Mr. Bonser reminded Mr. Sweet that he still has the option for a five (5) member Board to vote  
80 on his application if he decided to continue the case. Mr. Sweet declined the offer and was  
81 comfortable with a four (4) member Board vote as a decision now is important for his family's  
82 planning.  
83

84 Mr. Bonser closed the hearing allowing for Board discussion.

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85  
86 *Mrs. Bascom made a motion to approve Case# 22-002-VA. The motion was seconded by Ms.*  
87 *Mayo. The motion was approved by a vote of 3-1. The “aye” votes were Mrs. Bascom, Mr.*  
88 *Bonser, Ms. Mayo. The “nay” vote was Mr. Bassett.*

89  
90 Mrs. Bascom reminded the applicant that there is a thirty (30) day appeal period.

91  
92 *Case# 22-003-VA*

93 *Application from BSC Group, on behalf of Concrete Products of Londonderry, requesting a*  
94 *Variance from Article II Section E.2.g of the Nottingham Zoning Ordinance to permit the*  
95 *building of a manufacturing facility that exceeds the 34-foot maximum building height*  
96 *Zoning Ordinance. The property is located at 160 Old Turnpike Road in Nottingham, NH and*  
97 *is identified as Tax Map 3 Lot 2.*

98  
99 No applicant representation was present. Mr. Lemieux explained that he has been in  
100 communication with multiple representatives from various firms regarding the proposed project.  
101 He added that the applicants were made aware of the meeting via email and Public Hearing  
102 Notices. He further explained that the variance request is part of a larger project planned. At  
103 current time, the applicant has not submitted the appropriate paperwork for review from the  
104 Town Building Inspector. He added that there is likely more variance requests to come after the  
105 Building Inspector reviews the completed site plans.

106  
107 The Board discussed feedback from the Town Chief. Mr. Lemieux explained that he had met  
108 with the Chief and his feedback was that the proposed building height was acceptable. Mr.  
109 Lemieux will request that the Chief submit in writing his approval of the proposed height.

110  
111 *Mrs. Bascom made the motion to continue Case# 22-003-VA to a date to be determined by the*  
112 *applicant. The motion was seconded by Mr. Bassett. The motion was unanimously approved*  
113 *by a vote of 4-0.*

114  
115 Mrs. Bascom indicated that when the case is continued, the abutters will need to be re-noticed.

116  
117 Mr. Bonser asked Mr. Lemieux if 7 Berry Road, the property for Case# 21-014-VA, was up for  
118 sale. Mr. Lemieux replied that it was for sale, and he has received calls regarding the property.  
119 Mrs. Bascom asked if the sale of the property would end the need for a re-hearing of the case.  
120 Mr. Lemieux replied that he had offered the applicant, Mr. Frank Garrison, the opportunity to  
121 has his case re-heard; however, the applicant did not appear interested in doing so.

122  
123 **Election of Board Officers**

124  
125 *Mrs. Bascom made a motion to appoint Mr. Bonser as Zoning Board Chairperson. The*  
126 *motion was seconded by Mr. Bassett. The motion was unanimously approved by a vote of 4-0.*

127  
128 *Mr. Bonser made a motion to appoint Mrs. Bascom as Zoning Board Vice-Chairperson. The*  
129 *motion was seconded by Mr. Bassett. The motion was unanimously approved by a vote of 4-0.*

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**Review Zoning Board By-Laws**

Mrs. Bascom suggested to create a section for site-walks. She also suggested that the language for a quorum be defined as three (3) sitting Board members, not to include the alternate, before the meeting is opened. Mr. Bassett inquired if such a rule was a state mandate. Mrs. Bascom replied that the Board had reached out to legal for guidance. Mr. Lemieux confirmed that the Town Attorney advised on what makes up a quorum.

The Board requested that Mr. Lemieux include in the member folders the most up-to-date Zoning Ordinances. Mr. Lemieux agreed to add the Ordinances into the member folders for the next meeting.

Mr. Lemieux asked if Ms. Shippee-Rice was still a Zoning Board alternate as she had not yet been sworn in. Mrs. Bascom added that April is the month for appointing officers and alternates for the Zoning Board. The Board discussed when appointments are required to be sworn in including alternates. The Board decided to add the language that states Zoning Board members and alternates be sworn in during the month of April.

Mrs. Bascom asked Mr. Lemieux if the Town Attorney mentioned how Case#21-014-VA should be documented as it was not technically a legal hearing. Mr. Lemieux said that she did not and that he could asked for direction from the attorney. Mr. Bassett added that the emailed response from the Town Attorney can serve as the cover letter for the non-meeting. Mr. Bonser suggested adding the email from the Town Attorney into the file.

***Mrs. Bascom made the motion to approve the meeting minutes from February 15, 2022, and February 22, 2022. The motion was seconded by Mr. Bassett. The motion was approved by a vote of 3-0. Ms. Mayo abstained from voting as she was not a member during those meetings.***

***Mrs. Bascom made a motion to adjourn the meeting. The motion was seconded by Mr. Bassett. The motion was unanimously approved by a vote of 4-0.***

***The meeting was adjourned at 8:19 PM.***