

Nottingham Zoning Board Meeting

5/17/2022

Official Minutes

1 **Call to Order**

2 **Members Present:** Chair Terry Bonser, Vice Chair Teresa Bascom, Kathy Mayo, Romeo
3 Danaïs, Bonnie Winona-MacKinnon

4 **Absent:** Alternate Raelene Shippee-Rice, Alternate Kevin Bassett

5 **Alternate Seated and Voting:** None

6 **Others:** Kevin Lemieux, Land Use Clerk; Ronal Hutchins, Builder Applicant; James Tyrrell;
7 Deborah Tyrrell; Christopher Berry, Berry Survey and Engineering; Amanda Desroches,
8 Abutter; Derek Desroches, Abutter; John Morin, Abutter;

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

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

11

12 **Public Hearing:**

13 ***Case# 22-004-VA: Application from Ronald Hutchins on behalf of James & Deborah Tyrrell,***
14 ***requesting a Variance from Article II Section (C)(3)(a) of the Nottingham Zoning Ordinance***
15 ***to permit a forty-four and a half (44.5) foot setback where a fifty (50) foot setback is required.***
16 ***The property is located on Whites Grove Road in Nottingham, NH and is identified as Tax***
17 ***Map 63 Lot 47-C.***

18

19 Chris Berry came forward and introduced himself as the engineer for the project representing the
20 land owners and the builder. He gave a brief synopsis of the reason for the variance request.
21 The requested variance is for a 44.5-foot setback needed for a mobile home concrete pad
22 placement where a 50-foot setback is required. The site is located on a slope with the home and
23 concrete pad being placed based on typography. He explained that the home was inadvertently
24 placed within the 50-foot setback requirement which is what triggered the need for a variance.

25

26 Mr. Berry outlined the Five Criteria for a variance. He explained that given the current location
27 of the home, the 5.5-foot discrepancy in setback is not noticeable. He stated that many abutting
28 lots are non-conforming, thus the property is not out of place with the surrounding properties.
29 He added that granting of the variance would allow for the construction done to date onsite could
30 remain. He made the case that the benefit of a variance to the applicant far outweighs the
31 detriment to abutters. The use will remain as a single-family home, keeping in line with the
32 current abutting properties. He added that the size and topography of the lot should be consider a
33 “special condition” with respect to the variance request. He summarized that the hardship for the
34 property owners would be that a denial to the request would require removal and/or demolition
35 of the current home. He feels the small distance of the variance request is reasonable.

36

37 Mr. Bonser said that he visited the site. He noticed the steep slope and stated that the ground is
38 quite rocky.

39

Nottingham Zoning Board Meeting

5/17/2022

Official Minutes

Mrs. Bascom asked if the current concrete pad was the second one poured by the builder. Mr. Berry replied that it was. He stated that there was a mistake with the first poured pad. He believes the mistakes were due to work being performed during the winter and the bend in the property line.

Mr. Bonser opened the floor for public comment. Amanda and Derek Desroches of Highland Ave came forward as direct abutters to the property. They explained that their property is at the bottom side of the applicant's property slope. The Desroches said that the construction has caused increase water issues due to the steep slope. They believed that a drainage system was going to be put in place during construction of the site.

Ms. Bascom responded to the Desroches' concerns by informing them that the drainage issue is not part of the variance request, thus the issue is beyond the Board's purview. She encouraged the abutter's to contact the Building Inspector to review the drainage issue.

Mr. Bonser added that the nature of the variance request effectively moves the home further from the abutter's property, not closer. If the request was to move the home closer to the Desroches' property, then the Board can place conditions of the approval.

Ronald Hutchins, the builder, came forward for comment. He stated that the water direction had not been altered during construction as the swale has not been moved. He added that any home installed would affect some drainage into the ground.

Mrs. Bascom asked Mr. Hutchins if any considerations have been made regarding the water issue. Mr. Hutchins replied that this was the first time he has heard of the concern. He explained that there are gutters being installed, however all the water for the property directs toward the same direction.

Ms. Winona-MacKinnon asked the abutters how long they lived at the property. Ms. Desroches responded that they lived there for 21 years.

Mr. Danais asked Mr. Berry if a French Drain system would be beneficial in addressing the water if installed. Mr. Berry replied that he did not know of the issue, however, he can commit to reviewing the concern onsite and offer some basic solutions for the builder to incorporate. He offered to work with both the abutters and the builder in finding a resolution.

Ms. Winona-MacKinnon feels that the water conditions on the lot are not the doing of the property owners and should have been addressed during the Planning Board approval process. Mr. Bonser concurred with Ms. Winona-MacKinnon.

Mr. Hutchins said that he plans to plant grass in hopes that it absorbs some water.

Mr. Bonser asked if there was any more public comment. There was no more public comment. He closed the public portion of the hearing.

Nottingham Zoning Board Meeting

5/17/2022

Official Minutes

Ms. Winona-MacKinnon reiterated that she did not believe that the water issue was caused by the new property owners. She believes the oversight of the water issues should have been discovered during the Planning Board hearings. She doesn't feel the Zoning Board can do much to help with this issue.

Mr. Danais stated that whether they approve the variance request or not, it doesn't change the water issue for the abutters.

Mrs. Bascom made the motion to approved Case# 22-004-VA. The motion was seconded by Ms. Winona-MacKinnon. The motion was unanimously approved by a vote of 5-0.

Mr. Bonser explained that there is a thirty (30) day appeal window.

Signing of Updated Zoning By-Laws

Mr. Lemieux explained that he had been going back and forth via voicemail and email with Stephen Buckley, the legal counsel for New Hampshire Municipal Association. Mr. Lemieux said that he and Mr. Buckley had not had a chance to talk. He asked if the Zoning By-Laws can be pushed back to the next meeting. Mr. Bonser agreed.

Ms. Bascom asked Mr. Lemieux for the status of the Watercross Event in which the Zoning Board's approval for the event is being challenged in NH Superior Court. Mr. Lemieux responded that the last he heard, the judge for the case was going to attend the event this upcoming weekend.

Mrs. Bascom made the motion to approve the minutes from April 19, 2022. The motion was seconded by Mr. Danais. The motion was approved by a vote of 4-0 with Ms. Winona-MacKinnon abstaining from voting.

Mr. Danais made a motion to adjourn. The motion was seconded by Ms. Winona-MacKinnon. The motion was unanimously approved by a vote of 5-0.

The meeting was adjourned at 7:50 PM.