

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 18, 2021

Official Minutes as of 7/20/21

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

Members Absent:

Others Present: JoAnna Arendarczyk, Land Use Clerk; Scott Frankiewicz, Surveyor; Tami Defrancesco & Jim George, Applicants; Brett Allard, Attorney; Dirk Grotenhuis, Planning Board Chair; Marinus Vander Pol III, Survey Technician; Paul Pudlowski, Attorney

Abutters/ Residents Present: Jane Currivan; Kelly LaPointe; Mike St. Laurent; Usaercreed007; Mary Colvard; Steve; Michael Ortlieb; Steve Reynolds; Arthur Jenks; Pam; Lee Weldy; Jennifer Menard; Bridget; Mark Lefebvre

Call to order: 7:04pm

Roll Call: To account for members present

In anticipation of the extension of Executive Order 2021-04, 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 21-006-VA Application from Est. of John F. Bateman by Gail Bateman, Administrator, and Allan & Marsha Putnam, represented by TFMoran, Inc. – Seacoast Division. Requesting a Variance from Article II Section C(2)(b) of the Nottingham Zoning Ordinance to permit 175 feet of road frontage as a result of a potential lot line adjustment necessary to resolve an existing encroachment. The property is located at 12 & 14A Barrington Road in Nottingham, NH, and is identified as Tax Map 1 Lots 2 & 3 / 4.

Surveyor Marinus Vander Pol III and Attorney, Paul Pudlowski, highlighted items noted in the Narrative (file). The five criteria for the VA were read into the record.

The Board agreed that there are two residences pre-existing nonconforming. Ms. Winona McKinnon noted that she believes that applicants answered all of the reasons for a variance well.

Public Comment: 7:20pm

No Comments

Public Hearing Closed: 7:21pm

Motion Made by: Mrs. Bascom to accept **Case 21-006-VA** Application from Est. of John F. Bateman by Gail Bateman, Administrator, and Allan & Marsha Putnam, represented by TFMoran, Inc. – Seacoast Division. Requesting a Variance from Article II Section C(2)(b) of the Nottingham Zoning Ordinance to permit 175 feet of road frontage as a result of a potential lot line adjustment

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necessary to resolve an existing encroachment. The property is located at 12 & 14A Barrington Road in Nottingham, NH, and is identified as Tax Map 1 Lots 2 & 3 / 4.

Seconded by: Mr. White

Roll Call Vote: 5-0-0 **Motion Passed**

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

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

Case Closed: 7:23 pm

Case 21-007-AA Application from Tami Defrancesco and James George, requesting an Appeal to a decision made by the Planning Board on April 7th, 2021, that a Variance is required from Article 2 Section C of the zoning ordinance for a change of use. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Brett Allard from Bernstein Shur represented the applicant and landowner (Kubota Trust). He presented the history of the case and shared his screen, showcasing the map of the Lots as well as proposed maps of parking set-ups. He noted that although the Lots are within the Agricultural and Residential District, there is a commercial gravel pit in which is a manmade lake on Lot 10. He stated all parking and camping space has been moved to Lot 10 since the applicant's last proposal and the camping area is for temporary use and does not include electrical or water facilities. Mr. Allard noted that the applicants received a permit from the Board of Selectmen for their first event in 2020, and highlighted items contained within the application (file). Ms. Defrancesco clarified on what dates the events will be held.

Ms. Winona MacKinnon noted that by the Zoning Ordinance, a Variance would be needed, as the gravel pit is a non-conforming use, and the expansion and change of such is prohibited.

Motion Made By: Ms. Shippee-Rice to disapprove **Case 21-007-AA** Application from Tami Defrancesco and James George, requesting an Appeal to a decision made by the Planning Board on April 7th, 2021, that a Variance is required from Article 2 Section C of the zoning ordinance for a change of use. As that the decision made by the Planning Board requiring the applicants to seek a Variance is correct and an application for a Variance is required. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Seconded by: Mr. White

Roll Call Vote: 3-2-0 **Motion Passed**

Winona MacKinnon- Y	Shippee-Rice- Y	Bascom- N
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Bonser- N	White- Y	
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67 The Chair advised the applicant of the 30-day appeal window.

68 **Case Closed:** 7:50pm

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70 **Case 21-008-VA** *Application from Tami Defrancesco and James George, requesting a Variance from*
71 *Article 2 Section C of the Zoning Ordinance to permit Watercross events with incidental camping (ie.*
72 *commercial use) three weekends per year. The property is located at 214 Raymond Rd. in*
73 *Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.*

74 Brett Allard from Bernstein Shur represented the applicant. He highlighted the five (5) criteria as
75 noted in the application (file). He noted that the applicants are not proposing any permanent
76 changes to the property, just temporary infrastructure (ei. signs, porta-potties). Mr. Allard also
77 noted, in response to the complaints the applicant has received regarding noise, that there is
78 already noise due to excavating the gravel pit. Gravel pit excavation and the water crossing events
79 will not be done concurrently.

80 Mr. White stated that he believes this is not in the public's best interest and that it could affect the
81 neighboring property's value due to noise, he also believes that the applicant did not effectively
82 prove having unnecessary hardship.

83 Ms. Defrancesco clarified the hours and days the events will take place.

84 Mrs. Bascom commented that when she was on Pawtuckaway Lake during the event in 2020, the
85 noise was not too much that it ruined her enjoyment.

86 **Public Comment:** 8:07pm

87 Lee Weldy, abutter, (110 Nottingham Rd, Raymond), commented that he lives 800ft from the
88 property, he attended the event, and he can hear the noise at his house and at Pawtuckaway. He
89 also mentioned that he hears and sees the light from fireworks all throughout the summer. This
90 event has not affected his quality of life or plans and he is in favor of the event.

91 Arthur Jenks, abutter, (214 R Raymond, Rd, Nottingham), commented that he is directly behind the
92 property and had to drive through the event last year. This event did not affect any plans he had
93 for the weekend or enjoyment and he is in favor of the event. He stated there is just as much noise
94 coming from Pawtuckaway every weekend during the summer, and to him, there is not much of a
95 difference.

96 Jennifer Menard, abutter, (166 Raymond Rd), is in favor of the event. She has attended and so has
97 her children. She commented that there is a lot of noise coming from many different places in that
98 area and believes that this event does not generate any more noise than that.

99 Grace LaPointe, abutter, (212 Raymond Rd, Nottingham), is against the events. She lives across
100 from the property. She stated that there were three events last year, not just the one that the

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101 applicant spoke of. She had not been informed that the events were happening until the day of and
102 stated that the practice on Friday was much longer than the two hours Ms. Defrancesco spoke of.
103 She noted that decibel amounts were taken and that the noise level was unbearable and much
104 more than the noise from the gravel pit excavations.

105 Mary Colvard, resident, (Indian Run, Rd, Nottingham) is against the events. She was not aware that
106 this event was taking place last year and notes that she was not able to sit on her deck, on
107 Pawtuckaway, and have a conversation during it because the noise was so much. She also stated
108 that the event went longer than the hours stated. Ms. Colvard noted that this pond is above an
109 aquifer and these machines are notorious for spilling petroleum. If the petroleum got into the
110 aquifer, the drinking water for the area would be ruined.

111 Mike St. Laurent, resident, (12 Indian Run, Rd, Nottingham) believes that this event would diminish
112 the value of nearby camps. Mr. St. Laurent stated that he counted almost 100 camps within a mile
113 of this property, all of which he believes will be affected. He estimates that anyone looking to buy
114 one of these camps during the event would bid 20% lower than the appraised value. He noted that
115 the noise level for those on the lake is unbearable, he would never invite someone over during
116 these events because of it, and it would disrupt his lifestyle. Mr. St. Laurent brought up concerns
117 that there is no limitation of how large this event could become as well as concerns about the
118 aquifer underneath the lake and air pollution. He mentioned that the noise level during the event is
119 enough to cause permanent damage to the hearing of kids and young people.

120 **Public Hearing Closed:** 8:31pm

121 Mr. Allard responded to comments regarding the pollutants and the aquifer stating that this event
122 is no different than someone who has a boat out on the lake.

123 The applicant requested a continuance for next month to take a closer look at some of the issues
124 brought up by the residents and abutters and gather further information.

125 Ms. Winona MacKinnon noted that she thinks this is a good idea moving forward and that the
126 Board may seek legal advice in the interim.

127 Ms. Shippee Rice noted the issue of traffic as the road is already busy. Ms. Winona MacKinnon
128 stated that that is the province of the Planning Board. Dirk Grotenhuis, the Planning Board
129 Chair, agreed with Ms. Winona MacKinnon. Ms. Shippee Rice believes traffic is still something to
130 consider as it has an impact on the community.

131 Mr. Allard also agreed with Ms. Winona MacKinnon that after a Variance is granted, the applicant
132 would need to go to the Planning Board for a site plan review and approval, which would include
133 issues regarding traffic.

134 Mr. Bonser commented, referring back to the noise complaints, that motorboats on Pawtuckaway
135 are very loud and there are many snowmobiles on the lake during the winter which also make a lot
136 of noise. He stated that he does not know how someone could hear the noise from the event over

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a motorboat on the lake. Mr. White responded to Mr. Bonser's comment, stating that there are not thousands of motorboats or snowmobiles on Pawtuckaway, only about a dozen of each in the summer and winter. He stated that the town Noise Ordinance only allows for loud noises for up to 30 minutes and these events would go over that time, which is incomparable to a few motorboats or snowmobiles.

Motion Made By: Mr. Bonser for a continuance until the Zoning Board's next meeting on June 15th, 2021, of **Case 21-008-VA** Application from Tami Defrancesco and James George, requesting a Variance from Article 2 Section C of the Zoning Ordinance to permit Watercross events with incidental camping (ie. commercial use) three weekends per year. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Seconded By: Mr. White

Roll Call Vote: 5-0-0 **Motion Passed**

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

Case Closed: 8:39pm

Minutes

March 16, 2021

Mr. White abstained and excused himself from the vote.

Motion Made By: Mrs. Bascom to approve the March 16, 2021 as written and amended.

Seconded By: Mr. Bonser

Roll Call Vote: 5-0-1 **Motion Passed**

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

ADJOURNMENT

Motion Made By: Mr. Bonser

Seconded By: Mrs. Bascom

Roll Call Vote: 5-0-0 **Motion Passed**

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

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162 **Adjourn at:** 8:42pm

163

164 For the Nottingham Zoning Board of Adjustment

165 JoAnna Arendarczyk, Land Use Clerk; Julia Warren