

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 19, 2020

Approved: July 21, 2020

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; Morrison, Real Estate Agent for Paul Langdon; Paul Langdon, Applicant; Christian Smith, Surveyor; Caren Rossi (38 West Mill pond Road, Lee, NH)

Call to order: 7:00pm

• **Emergency Order #23**

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

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

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

Italic font below notes public hearing notice language

Public Hearing

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

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

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

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

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

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

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

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

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

Mrs. Bascom commented on a few things:

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

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

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

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

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

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

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

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

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

Mrs. Bascom echoed the words of Mr. Morrison.

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

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

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

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

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

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

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

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

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

98 **Seconded by:** Mr. White

99 **Roll Call Vote:**

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

100 **2-3-0 Motion Failed**

101

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

107 **Seconded by:** Mr. Bonser

108 **Roll Call Vote:**

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

109 **4-1-0 Motion Passed**

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

111 **Public Meeting**

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

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

116 **Staff/ Board Members Update**

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

119 **Minutes**

120 January 21, 2020

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

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

123 **Seconded by:** Mr. Bonser

124 **Roll Call Vote:**

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

125 **4-1-1 Motion Passed**

126

127 April 21, 2020

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

129 **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

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130 **Seconded by:** Mr. Bonser

131 **Roll Call Vote:**

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

132 **4-0-1 Motion Passed**

133

134 **ADJOURNMENT**

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

136 **Seconded By:** Mr. Bonser

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

138 **Adjourn at:** 8:40pm