

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

November 17, 2020

Approved: December 15, 2020

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

Members Absent: Peter White;

Others Present: JoAnna Arendarczyk, Land Use Clerk; Chrstopher R. Berry; Berry Surveying; Lou Milano, Applicant; David Lauze, Applicant; Lynn Crowell, Owner

Abutters/ Residents Present: Mark & Robylyn Badolato; Sandi Neff; Cindy Amabile; Larry Elliott; Richard Moland; Stephen Curwood; Deb Wallace; Patricia Roix; Dennis Buck; Ned Marvell; Mary Cusano

Call to order: 7:06pm

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

Public Hearing Opened: 7:07pm

- *Case 20-013-SE-VA- Application from David W. Lauze requesting a Special Exception from Article III Section B.2.A of the Nottingham Zoning Ordinance to permit a new home with 3.8ft of encroachment to hydric B soils where 50ft is required. And a request for a Variance from Article II Section C.2.B of the Nottingham Zoning Ordinance for 76.8ft of road frontage where 200ft is required. The property is located at 9 Lookout Point in Nottingham, NH and is identified as Tax Map 71 Lot 52.*

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

Mr. Lauze, representing the owners, James and Lynn Crowell presented the case, stated that the subdivision was approved in 1961(correction to Criteria #2 in SE case docs. file). The road is currently a Town Road. The lot is currently vacant and though approved as a buildable lot in 1961 it doesn't meet today's Zoning standards. He noted that the wetland area meets DES requirements but not the Nottingham Zoning Ordinance. He presented the plan and read the Five (5) Criteria and Special Exception criteria(file).

The Board discussed the validity of the Variance received in 2002, allowing the home to be built within 10' of the property line. It was determined that the VA is valid due to the Town not publicly posting the expiration of Variances that had not been acted in by 2013 (RSA 674:33(C)).

Public Comment:

The owners stated that the Land Use Clerk had confirmed that the Variance is still in effect and is not the question before the Board for this case.

Board Deliberations:

The wetland is wet but not by State standards.

Motion Made by: Mrs. Bascom to approve Case 20-013-SE-VA. Application from David W. Lauze as written.

Seconded by: Mr. Bonser

Roll Call Vote: 4-1-0 **Motion Passed**

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

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

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

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Case Closed: 8:21 pm

- **Case 20-014-SE-VA-** Application from Louis Milano requesting a Special Exception from Article II Section C.3.B of the Nottingham Zoning Ordinance to permit a second floor to an existing structure 8ft into the setback where 20ft is required. And a request for a Variance from Article II Section C.2.B of the Nottingham Zoning Ordinance for 49.96ft of road frontage where 200ft is required. The property is located at 37 North River Lake Road in Nottingham, NH and is identified as Tax Map 1 Lot 43.

Mr. Milano presented his case. He stated that there is a residence there currently. This renovation will improve the dwelling. The only way to add extra space to the residence is by building upward and that is the plan. He presented the required criteria (file).

Mr. Bonser stated that he agrees the project will improve the neighborhood.

Details on the plan were clarified. Necessary ones were added to the approval.

Public Comment:

Larry Elliott- Executor of abutting estate 35 North River Lake Road- supports the project.

Richard Moland- abutter- 39 North River Lake Road- Supports the project.

Motion Made by: Mr. Bassett to approve case # 20-14-SE-VA for a Special Exception from Article II Section C.3.B of the Nottingham Zoning Ordinance to permit a second floor to an existing structure the noticed 8ft into the setback is to be revised to 6” on the southside, to allow for drip edges etc. where 20ft is required and 10ft on the southside where 20ft is required. And for a Variance from Article II Section C.2.B of the Nottingham Zoning Ordinance for 49.96ft of road frontage where 200ft is required.

Seconded by: Mr. Bonser

Roll Call Vote: 5-0-0 Motion Passed

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

Case Closed: 9:03pm

Ms. Shippee-Rice left the meeting at 9:04pm

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.

Mr. Berry was informed of his right to postpone until his case could be heard by a full board. He chose to continue to present his case knowing that later if he felt it was necessary to postpone could.

Mr. Berry informed the Board of the history of the project and what led to the need for the Variance. He stated that DES has reviewed the plan and has requested lesser impact options. The crossings are for roadway design not for buildable land and the request is a combination of two areas resulting in approximately 6,717 SF in area. At the request of the Board, Mr. Berry summarized the meeting with the Conservation Commission. He emphasized the plan for safe animal passage and ultimately being granted approval to submit the plan to DES.

For further understanding of the reason for the case being sent to the ZBA Mrs. Bascom read Article III Section B.4 of the Zoning Ordinance to the Board and the residence in attendance.

Mr. Berry stated that the emphasis was on “Structure” or “Alter” as not being a permitted use.

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The Board questioned why two cul-de-sacs were not considered and thereby avoiding the wetlands. Mr. Berry stated that safety is a concern in cul-de-sacs and the rule is where a connection can be made it should be.

Mr. Berry presented the Five (5) Criteria (File).

Public Comment:

Mr. Curwood-Abutter- presented a list of concerns regarding the wetland crossing as well as other concerns that are for the Planning Board purview. He submits that the information is misleading and incorrect. He suggested that the Zoning Board request a proper survey be done. Mr. Berry responded that a Certified Wetland Scientist reviewed the land and all storm events have been accounted for.

Patricia Roix and Todd Marvel each expressed the same concerns with respect to the accuracy of the wetland delineations. They agreed with the recommendation to request an independent survey of the land.

Public Comment Closed: 10:25pm

It was noted that the lots are to be two (2) acre minimum and that the Public Works Director has commented on the project. A low salt requirement has not been requested or required for this project. Waterflow will not cross Mitchell Road.

The Board agreed that a Site Walk should be held to make a more educated vote.

Motion Made by: Mrs. Bascom to continue Case #20-014-VA Application from Robert Diberto for 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. To December 15, 2020 at 7:00pm with the existing Board members and Ms. Shippee-Rice.

Seconded by: Mr. Bonser

Roll Call Vote: 4-0-0 Motion Passed

Winona MacKinnon- Y	Bascom- Y
Bonser- Y	Bassett- Y

The Site Walk will be scheduled by a poll of dates via email and noticed on the bulletin Board and on the website as required.

Public Meeting

2021 Application/ Meeting Schedule

The Land Use Clerk stated that no edits have been recommended by the Board. - No comments were made

Staff/ Board Members Update- No updates

Minutes

- October 20, 2020

The Board agreed to table the minutes due to the late hour.

ADJOURNMENT

Motion Made By: Mrs. Bascom to adjourn

Seconded By: Mr. Bonser

Roll Call Vote:

Winona MacKinnon- Y	Bascom- Y
Bonser- Y	Bassett- Y

Vote: 4-0-0 Motion Passed

Adjourn at: 10:50 pm

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