

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

July 17, 2018

Approved: October 16, 2018

Members Present: Mike Russo, Chair; Bonnie Winona-MacKinnon, Vice- Chair; Teresa Bascom; Terry Bonser; Peter White;

Members Absent: Kathy Bowse, Alternate; Kevin Bassett, Alternate

Others Present: JoAnna Arendarczyk, Land Use Clerk; Peggy Weisman, Abutter; Jim Schulte, Attorney; John Vigars, Abutter, Nan Vigars, Abutter; Peter C. Loeser, Applicant; Debora McLaughlin, Abutter

Call to order: 7:04pm

Alternate Seated and Voting: Kevin Bassett for Peter White (recused- abutter to the applicants)

Applicant was offered the opportunity to reschedule hearing due to lack of Board members present. Applicant chose to move forward as planned.

Public Hearing

• Case 18-005-VA (Continuation)

Application from Peter Loeser and Joy V. Riddell, requesting a Variance from Article II Section C:1(a) of the Nottingham Zoning Ordinance, to permit an addition, large equipment storage shed and ADU/garage on a private road. The property is located at 53 White's Grove Road in Nottingham, NH and is identified as Tax Map 63 Lot 81.

The applicant stated that the plan is to increase the existing foot print, add a garage with an ADU above it and add a second floor to the house. Another part of the request is to build a garage for a boat and a tractor. The plan is to move full time to the property and include his mother-in-law in the ADU. The applicant was asked to describe some of the property i.e. septic, well and current house features: The dog house at the beginning of the driveway is where the well is located. The septic is roughly between the house and the existing shed, a stone and pipe system and he is aware he will need to get a proposal for a replacement system if the current system fails. The new system would be a chamber system beneath the driveway. The plan is to install a master bath upstairs and another full bathroom, a full bathroom for the ADU and install a ½ bath downstairs. The existing shed sits precariously on rocks and is not stable enough to park cars in and another shed/playhouse will be removed. He also informed the Board that all builders have stated that it would be much more cost effective to rebuild than to readapt the current structure and add on, "Which is heartbreaking."

The Board noted that there aren't measurements on the application/ plan (Mr. Loeser stated that he can provide those if needed he didn't provide more than what the Board has before them because Mr. Bookholz, the Building Inspector, said that what was provided was enough for the Board). The Board also noted that the application is for an addition not a teardown and rebuild. (Mr. Loeser explained that the reason for that is because Mr. Bookholz informed him that he was requesting a Variance for the ADU/Garage which is an "addition": as the main house is staying within the same footprint as the current house) Some of the Board members expressed different understandings of the definition of "same footprint". The fact that the applicant is applying for the ADU/Garage appeared to a few of the Board members to be an expansion on the existing footprint, while others saw the ADU/Garage as the "addition" that was represented in the application.

Mr. Russo asked Mr. Loeser if he planned to install rainwater runoff measures. Mr. Loeser stated that he definitely does as the current structure does not have anything thus a trench is always present from the house to the lake after a heavy rain.

Ms. MacKinnon noted that the Deed restricts the property to one residence. She stated that an ADU is an additional residence. (Mr. Loeser stated that Mr. Bookholz told him that the State

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

July 17, 2018

recently passed a law that allows all residences to have one attached ADU.) The Board agreed to get a legal opinion as to if the RSA can supersede the Deed. The applicant will reconsider the kitchen above the garage if the ADU is not allowed per the Deed restriction.

Public comments:

Jim Schulte, Attorney representing abutter, Peggy Wiseman, handed the Board members the plan from which the applicants sketch was developed. It is a subdivision plan from 2002. All properties, including Mr. Loeser's are bounded by Whites Grove Road and Shore Road (camp road). The applicant has placed boulders on the Gravel Drive which the applicant omitted on his plan. This portion of the Gravel Drive thus causing a problem for emergency access. The Town's Fire Chief had done a review of a few of the Private Roads recently. White's Grove Road was one of them. Mr. Schulte read a few of the sentences from the letter the Chief sent to the Town Administrator. The main focus of the letter was based on the condition especially the width of the Roads and the fact that many of them are dead-end roads. Mr. Schulte suggested a condition of granting the variance be to reopen the blocked off portion of the Gravel Drive to alleviate the safety issue of the "dead-end road" created by the applicant. Mr. Schulte also commented that he is not clear as to the Variance request. The proposal is overwhelming to the typical housing in the area and appears to put the garage about 40' closer to the Weisman's property. Mr. Schulte stated that the garage should be further from the allowed setback of 20' so as to not devalue the surrounding properties, which the applicant has not proven one way or the other. If the road gets reopened and the garage is moved further from the abutter's property, then the abutter's concerns are satisfied. He added that the applicant didn't supply the level of information needed for the Board to make an educated decision i.e. measurements and that the RSA does not override the private restrictions in the Deed.

Ms. MacKinnon stated that she found the plans presented to be the "lowest level" provided and that more detail is needed. Mrs. Bascom stated that a professional survey plan should not be required for these cases. That level of a plan is necessary for the Planning Board. Measurements have been requested and Mr. Loeser has stated that he will provide them.

The Board requested a copy of the comments on the private road access from the Chief Vilchoc on June 18, 2018 to Christopher Sterndale, Town Administrator. (Attached)

Mr. Loeser spoke to the background regarding his decision to block off the portion of the Gravel Drive which was due to the safety for his family. The survey and the Town assessment depict that part of the Gravel Drive to be on his property. He contacted the Town for approval to block the way directly in front of his house and was given approval from the previous Building Inspector, Paul Colby.

Mr. Schulte read a portion of the Deed that contradicts the statement that the blocked portion of the road is part of Mr. Loeser's property. He emphasized that the property is "BOUND" by the road, it is not a part of the lot.

Nan Vigars spoke to the safety of White's Grove Road. She stated that her father owned and built the house on Mr. Loeser's property and that his concern has always been that all the homes would have emergency access.

Mr. Loeser stated that based on his conversation with Paul Colby He was required to grant access to his neighbors however that access did not need to be double ended. He also clarified some misconceptions regarding his requests. The "Large Equipment Shed" is for a Kabota and a Boat – not for commercial use- he is a physician. His plan is to build a single home not two homes. He understands that his request is on the larger side. He stated that he "assumes" neighbors would add on to their homes if their lot sizes allowed for it as his does.

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

July 17, 2018

Ms. MacKinnon stated that she would not vote to allow the ADU because deed restricts it. She added that the language in the deed which describe the parcels and ROW supersedes the opinion of the Town staff.

Mr. Loeser stated that he would like to try to satisfy the concerns presented tonight at a continuation.

Mr. Russo requested that the applicant include the well, septic, deck and power lines on the new plans.

After discussion Mr. Loeser agreed to continue on August 21, 2018.

Motion Made By: Mrs. Bascom to continue Case 18-005-VA from Peter Loeser and Joy V. Riddell to August 21, 2018 at 7pm. And to have new plans to include well, septic, powerlines, and decking, a statement of ROW and clarification on the application as to exactly what the VA request is.

Seconded by: Ms. MacKinnon

Vote: 4-0-0 **Motion Passed**

Peter white reseated

MINUTES

- May 15, 2018

Motion Made By: Mrs. Bascom to approve the May 15, 2018 minutes as presented.

Seconded By: Mrs. MacKinnon

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

Motion Made By: Ms. MacKinnon to approve new Variance applications as amended

Seconded By: Mrs. Bascom

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

Staff/ Board Members Update

Next meeting August 21, 2018- Two Variance Applications

Adjournment

Motion Made By: Mr. Russo

Seconded By: Mrs. MacKinnon

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

Adjourn at: 9:09 pm

For the Nottingham Zoning Board of Adjustment

JoAnna Arendarczyk; Land Use Clerk