

**NOTTINGHAM PLANNING BOARD**

**April 11, 2012**

**PUBLIC SESSION**

***Approved & Amended***

**Type of Meeting:** regularly scheduled meeting

**Method of Notification:** Posted at the Nottingham Municipal Building & Nottingham Post Office

**Meeting Location:** Nottingham Municipal Building

**PB Members Present:** Arthur Stockus, Chair, Troy Osgood, Vice Chair, Susan Mooney, Secretary, John Morin, Dirk Grotenhuis, Robert “Buzz” Davies, Alt. Member, Hal Rafter, Selectmen’s Rep, Cheryl Smith, Alt. Member

**PB Members Absent:** Rick Bacon, Traci Chauvey, Alt. Member.

**Others Present:** Lisa Sears, Land Use Clerk, Paul Colby, Building Inspector/Code Administrator, Charles Brown; Town Administrator, Christian Smith, Beals Associates, Faith Levesque, Peter & Thelma Thompson, Sarah Carson, Peter Landry, Kenneth Cardillo, Betsy Saunders, Lincoln Lavoie, Kristen Dubee

Chair Stockus called the meeting to order at 7:02 pm. Introductions were made. Mr. Davies was seated for Mr. Bacon. Ms. Smith was participating but not voting. The approval of the minutes was moved to the end of the agenda. Chair Stockus called the case.

*Case #P12-03-SUB-An application from Doucet Survey, Inc. for a 4-lot subdivision (acceptance, compliance review, and final approval). The property in question is located on Old Turnpike Road (Rte 4) and identified as Tax Map 4 Lot 5. Owner(s) of Record: James S. Fernald Revocable Trust; James S. Fernald Trustee, Linda R. Fernald Revocable Trust; Linda R. Fernald Trustee, Frederick S. Fernald 1992 Trust; Frederick S. Fernald Trustee*

It was noted that the Board had received all the missing Notices of Authorization from all of the Owners that allow Beals Associates to represent them here tonight. Chair Stockus asked Mr. Colby to review his memo on Completeness and Compliance. Mr. Colby first addressed Completeness. He noted that under the Subdivision Regulations (page 6) the applicant is required to have a letter from the Conservation Commission (CC) in order to be complete. He noted that there is no letter yet but traditionally the CC is notified during the process and asked to comment then not as a condition of completing the application. He suggested doing so again; if the Board agrees then the application is complete. Ms. Mooney asked if it could be made a condition of being complete. Chair Stockus agreed.

**MOTION by Ms. Mooney** to accept this application as complete contingent upon review of this subdivision by the Conservation Commission.

**SECOND by Mr. Osgood**

**VOTE 7-Aye. 0- Opposed 0- Abstained MOTION PASSED**

Mr. Smith, Beals Associates, reviewed the 4 lot subdivision proposal with the Board. He noted that waiver requests; one for slope profiles and the other for road sediment control plan. He noted that one of the lots is a large lot for future development.

Mr. Colby continued to review his memo. He addressed that the impact statement needs to address the traffic needs to address all the lots not just one. Mr. Smith agreed.

Mr. Colby noted that the Board needs the Fire Chief's input. Mrs. Sears noted that request to the Chief was just made the night before. Mr. Colby noted that the Board can no longer (by law) require sprinklers. Mr. Smith noted it will likely be a cistern if the Chief requires them to do so.

Mr. Colby explained that the large future development of this lot needs to be shown and that there can be a note put on the plan acknowledging that the undeveloped lot cannot be developed for 4 years from date of approval per Town regulations.

Mr. Smith showed potential development plans (14 lots in each of the 2 concepts) but added that the applicant doesn't own the lot needed for access (off Merry Hill Lane) to this lot.

Mr. Colby briefly discussed the access to the State Highway and shared driveways. He also noted that he would be meeting with the Dept of Transportation (DOT) on these driveway accesses on Thursday. It was noted that the Chief of Police sent an email to the Board expressing his safety concerns on these proposed driveways as well. Mr. Colby gave the Board a brief review of his site walk with applicant and the DOT. He recommended the Board have a site walk; either as a Board or each member going individually.

Mr. Colby reviewed the rest of his recommendations in the memo. Mr. Smith agreed to comply with Mr. Colby's recommendations. Mr. Smith said he believed that the driveways would be approved by DOT as designed. He added that they meet all standards but did acknowledge that it may take some time to get out of these driveways especially taking a left hand turn. Chair Stockus read an email from the Police Chief expressing safety concerns for these driveway accesses. Board members asked various questions on the driveway accesses.

Chair Stockus opened the public hearing for this case. He called for abutters in favor or against the project. There were none. He called for abutters with questions or comments. Ms. Saunders asked about phasing of the plan. Mr. Colby again confirmed that the large parcel would not allow for development for four years per the Town's Zoning Ordinances. It was noted when that does come before the Board all the abutters would be notified. Mr. Smith added that they would probably be required to also provide a traffic study, drainage plan, Alteration of Terrain permit from the State, etc. She added that it is very difficult to take a left onto Route 4, perhaps that they should not use Route 4 as the access. Mr. Smith again noted that the applicant doesn't currently own any other access to the property.

Mr. Smith took additional questions about the proposed plan from various abutters. It was noted that the lot with future development was only provided as background info that the whole Planning Board Subdivision process (and all its requirements) would have to be done on this large lot and there are no guarantees that it would be what is being presented tonight. Chair Stockus closed the public hearing.

The Board discussed the need for a site walk. The Board decided due to scheduling issues that each member would review the site before the next meeting. They did not schedule an official site walk that would be a public meeting. At this time the public was not invited to participate in the site walk. Mr. Smith added that he did not have authority to authorize that.

Mr. Colby noted that the only outstanding issue is the driveway permitting process. Ms. Mooney noted that the May 14<sup>th</sup> is the next Conservation Commission meeting.

**MOTION by Ms. Mooney** to continue this case #P12-03-sub on May 23, 2012 at 7pm.

**SECOND by Mr. Osgood**

**VOTE 7-Aye. 0- Opposed 0- Abstained MOTION PASSED**

**Winter Street Matter- Charles Brown, Town Administrator**

Mr. Brown had submitted and reviewed a letter on behalf of the Board of Selectmen (BOS) on the issue of Winter Street being a Class VI and getting one building permit for TM 12 Lot 17. Mr. Colby added that the local governing body (BOS) can allow this and the owner would have to sign a waiver of liability. Chair Stockus read a sample waiver.

It was noted that before a building permit could be issued the final waiver would need to be signed.

*Point of Order: there were many side discussions going on at the same time while questioning this issue.*

Mr. Brown noted that the Town will need to take an inventory of similar roads that need to be discontinued but for one reason or another never was.

Mr. Davies noted that if a building permit is granted for Lot 17 then there is potential for others. Mr. Brown agreed. It was noted that there was a lot of about 1500 acres on this road. Discussion continued on the owners of the road and land/lots around it.

Ms. Smith asked about a legal opinion. Mr. Brown read from his notes on what the Town's attorney had said in regards to this issue. Mr. Brown noted that the issue of prescription came up. Ms. Mooney asked about the class of the road and its length.

Mr. Landry briefly reviewed his research on this road adding that private rights are always there. The owner explained that his son would like to move into his existing home (Lot 18) and he and his wife would build a house on this lot for themselves ( Lot 17). Discussion

139 moved to the proper addressing and numbering for 911. It was noted that it would be  
140 handled later on in the process. They also reviewed briefly the RSA that applies requiring  
141 comments from the PB.

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143 Ms. Mooney suggested a subcommittee to review roads in Town that may need to be  
144 discontinued. Mr. Brown agreed.

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146 Ms. Smith noted that she would have liked a written, more formal response from the  
147 Town's Attorney. Mr. Brown agreed.

148  
149 Mr. Grotenhuis added that the concerns were future development, lot(s) being sold off,  
150 what is going to happen for a common driveway and the waiver issue, can or should the  
151 Town going to maintain it or not. Ms. Smith added she would like legal input. Mr. Rafter  
152 noted that he didn't hear any opposition or doubt in these comments tonight. Chair Stockus  
153 noted there seemed to be the most concern for setting a precedent. Ms. Smith agreed.

154  
155 Mr. Davies asked if the land owner could discontinue the road. Mr. Brown noted only the  
156 Town could do that. Mr. Davies stated that he didn't think it was a good idea to issue a  
157 building permit on a Class VI road because it would open too many other options along  
158 that same road. Mr. Osgood agreed, noting the road should be discontinued before issuing  
159 the permit.

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161 Mr. Landry stated that the RSA covers issues of liability for the Town, and gave his  
162 opinion on the law in this area. Mr. Rafter noted that if the BOS had approved the permit  
163 and sent them to the ZBA they probably would get approval. He also added that, based on  
164 history they probably wouldn't challenge it.

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166 Mr. Rafter also noted that the BOS will put a warrant article for this road and maybe other  
167 roads like it to be officially discontinued at next year's Town Meeting.

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169 Mr. Brown thanked the Board.

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171 **Old Business**

172  
173 The Board reviewed the conditions for Rocky Hill Subdivision. Mrs. Sears noted that the  
174 Town has not received the bonds for the maintenance and construction of the road. Mr.  
175 Smith reviewed Mr. Gerry of Rockingham County Conservation District (RCCD) memo  
176 confirming that they will comply with their requests. He also added that they met with the  
177 Conservation Commission and RCCD will hold the conservation easement.

178  
179 The Board agreed to sign, individually, the mylar once the Bonds are set. Mr. Smith  
180 thanked the Board.

181  
182 **Review of the Minutes**

183  
184 *March 28, 2012*

185 Line 32 change *Damn* to *dam*  
186 Line 40 change *bond* to *the*  
187 Line 44 change *Granite* to *GRANIT*  
188 Line 49 insert *a* after *at*  
189 Line 65 add *s* to *Fernald*  
190 Line 66 change *this* to *third party assignment*

191

192 **MOTION by Ms. Mooney** to approve the amended minutes of *March 28, 2012*

193 **SECOND by Mr. Davies**

194 **VOTE 5-Aye. 0- Opposed 2- Abstained MOTION PASSED**

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196 **Master Plan Chapter(s) Review**

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198 After discussing the case load and scheduling, the Board decided to postpone this review  
199 until April 25<sup>th</sup> meeting. Chair Stockus asked the Board members to read them all ahead of  
200 time.

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202 **MOTION by Mrs. Mooney** to adjourn.

203 **SECOND by Mr. Morin**

204 **VOTE 7-Aye. 0- Opposed 0- Abstained MOTION PASSED**

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206 **Respectfully Submitted,**

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210 **Lisa L. Sears, Land Use Clerk**

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212 *These minutes are subject to approval at a regularly scheduled Planning Board meeting*  
213 *at which time the above minutes are corrected or accepted.*