

NOTTINGHAM PLANNING BOARD

May 23, 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, Hal Rafter, Selectmen's Rep., Robert "Buzz" Davies, Alt. Member,

PB Members Absent: Cheryl Smith, Alt. Member, Traci Chauvey, Alt. Member,

Others Present: Lisa Sears, Land Use Clerk, Heidi Carlson, Christian Smith, Scott Gold, Patty O'Brien, Faith Levesque, Jim Fernald, Bill Netishen, Sam Demeritt, Joseph Falzone, Kristen Lamb, Edward Viel, Sarah Carson, Sharon Kunz, K. Clark

Chair Stockus called the meeting to order at 7:00 pm. Introductions were made. Mr. Davies was seated for the vacant seat. The approval of the minutes was moved to the bottom of the agenda. Chair Stockus called the case.

Case #P11-07-SIT (continued) Application from **James S. & Linda R. Fernald** for acceptance, compliance review, and final approval of site plan review to allow the leasing of .5 acre for commercial propane tank to Rymes Heating. The property in question is located at 240 Stage Road and is identified as **Tax Map 29 Lot 8-1**.

Chair Stockus noted that the case had been continued until tonight to allow time for the ZBA case to make a decision. It was noted that there is still no decision at this time.

MOTION by Ms Mooney to continue this case until June 27, 2012.

SECOND by Mr. Osgood

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

Chair Stockus called the next case.

Case #P12-03-SUB-(continued) 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 the case was continued to allow the Board members to do a site walk individually and to allow the applicant to address the issues raised in Mr. Colby's memo.

Mr. Smith, Beals Associates, reviewed the previous plan. Mr. Smith stated that after dealing with the driveway concerns and at the prompting of Mr. Colby's memo noting that nothing can be further developed on the large fourth lot of the original plan for 4 years per the *Town of Nottingham Subdivision Regulations*. Mr. Falzone has decided to revise the plan and change/improve the access to the lots. Mr. Smith reviewed the new plan. The new Open Space development plan has a total of 19 lots (17 new lots) on about 20 acres; each lot is around one acre. The access is via Merry Hill Road and there are still two lots on Route 4 with a shared driveway. Discussion was on possibly doing the project in two phases or all at once. No decision on phasing was made. There is a cul-de-sac that is about 1900' in length for 17 of the lots. Since this Open Space plan is now essentially a whole new plan the applicant agreed to renotify the abutters, at their cost, as well as submitting everything that goes with completed application.

Discussion moved to the Board's opinion on cul-de-sacs. Chair Stockus took an informal poll of the Board members with all but Mr. Morin preferring the new cul-de-sac open space plan. Mrs. Sears noted that the applicant would still need to put in a waiver request for the cul-de-sac with the formal application. Mr. Smith agreed. Mr. Colby noted that the Fire Chief would need to review the plans again since it has changed since his last review.

The plan now shows a fifty foot right of way between the two lots on Route 4 through to the cul-de-sac if they should need to do that in the future. It was noted that they could blend those two lots and delete the 50' right of way if the Board was comfortable with that which they later agreed to. Mr. Falzone indicated that if the Board didn't approve of the Open Space design then he would go back to the conventional subdivision plan with a through road and not a cul-de-sac.

During the discussion, Chair Stockus stated he preferred this new design especially considering the previously discussed problems with the driveway access on Route 4. Mr. Falzone stated that the NH Dept. of Transportation has to grant him at least one access on Route 4 for the two lots there.

The Board decided to continue this project under the same case number to contain the history of the project.

Chair Stockus called the next case:

Case #P10-02-SUB DR (continued) – Harbor Street Limited Partnership – 154± acre parcel which fronts both Friar Tuck Lane and Oakridge Road – Map 10 Lots 9 & 10, Map 8 Lots 8-21 & 9 – Application for a design review of a 43-lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian M. & Jennifer Spagna, Seth F. & Pearl I. Peters

Chair Stockus noted this case has been continued from the April 25th meeting. Mrs. Sears noted the additional letters/emails since the last meeting. Chair Stockus reviewed the history of the case for Mr. Rafter. Mr. Colby commented that his opinion was that the applicant has no new designs and the applicant's request to continue was purely for his

93 economic purposes. Mr. Colby restated that he believes the request should be denied,
94 ending the Design Review. It was noted that no new fees would be charged to the applicant
95 if the request were denied; the applicant would have until May of 2013 to file the formal
96 application without them.

97
98 Chair Stockus noted that if this Board ends this Design Review there is nothing stopping
99 Mr. Falzone from continuing to pursue putting this parcel into conservation.

100
101 Discussion continued on timelines for the project and the costs to the applicant. It was
102 noted that there is a possibility that there may not be enough federal funds to satisfy Mr.
103 Falzone for this project in which case he would continue to pursue the subdivision as
104 planned. Mr. Falzone noted he will not know that dollar amount until December 2012 or
105 January 2013. Mr. Falzone noted that neither he nor any of the abutters involved submitted
106 the federal application for these funds to date. Mrs. Sears noted that this applicant first
107 requested an extension to pursue federal and private conservation funding for this project in
108 August 2011.

109
110 **MOTION by Ms Mooney** to grant Mr. Falzone/Harbor Street Limited the nine month
111 extension to January 2013 so that he may pursue conservation options.

112 **SECOND by Mr. Osgood**

113 **VOTE 4-Aye. 3- Opposed 0- Abstained MOTION PASSED**

114
115 *Point of Order:* It was noted that 9 months brings it to February 2013. Ms. Mooney, the
116 Board and Mr. Smith agreed that the intent of the motion was to grant the extension to the
117 second PB meeting in January 2013.

118
119 Chair Stockus called the next case:

120
121 Second Review of Conditions of Approval for “Rocky Hill” subdivision: **Case**
122 **#P11-02-SUB-** Tax Map 58 Lot 4 and Tax Map 58 Lot 6-2A owners of record:
123 Harbor Street Limited Partnership and Winthrop R. True respectively.

124
125 Chair Stockus noted that Mr. Falzone has requested that the Board sign and record the
126 mylar for the approved plan before requiring him to provide the Bond to the Town for the
127 road construction and maintenance.

128
129 Mr. Falzone stated that he has always been allowed to do so with the understanding that he
130 can not convey (sell) the lots until the Bond is supplied to the Town. He noted he has had
131 the amount of the bonds reviewed and agreed upon with Rockingham County Conservation
132 District (RCCD). He stated that he has done this here in Nottingham for eight years. He
133 added that he doesn’t believe any bank would provide the loan (bond) on lots that were not
134 recorded.

135
136 Chair Stockus noted that none of current members were on this Board when Mr. Falzone
137 last had a development before them, so that this Board was now required to go by the letter
138 of the law. Mr. Colby read Section VI C of the Nottingham Subdivision Regulations and

The Office of Energy and Planning Handbook citing RSA 674:36, III (b). Chair Stockus stated he has read what Mr. Colby has read and can't see anyway around requiring that Bond before signing the mylar.

Mr. Falzone suggests the Board could sign/record the plan by adding a note to the plan stating that no lots can be conveyed without the Bond being posted. Chair Stockus stated they were obligated by oath to protect the Town. Chair Stockus called for input from the other Board members. Mr. Grotenhuis added that he agreed with Chair Stockus. The Notice of Decision was reviewed, which requires the Bond. Mr. Smith noted they have the Bond estimates but not the actual Bond. Chair Stockus read the minutes from the meeting in which the project was approved stating the bond was a condition of approval.

Mr. Colby noted that the condition, to not convey the lots until the Bond was posted was not in the original approval or discussion so that if adding a note to the plans was to be agreed upon there would have to be a new public hearing with notices to abutters to change the conditions of approval and the approved plan.

MOTION by Mr. Davies to deny Mr. Falzone's request to delay providing the Bond before signing of plans.

SECOND by Mr. Morin

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

Point of Order: Mr. Falzone asked if vesting starts upon the recording of the plan. Mr. Colby agreed.

Mr. Smith noted all of the other conditions of approval for the project have been met. He thanked the Board.

Review of the Minutes

May 9, 2012

Line 15 Change *Tome* to *Tom*

Line 39 change *believes* to *recommends*

Line 47 *month* to *months*

Line 59 *comment* to *commented*

Line 60 change *rough* to *approximate*, change *it takes* to *these project take*.

Line 62 delete semicolon

Line 64 change *is so he may* to *would*

Line 74 change *funding* to *contributing* add: *as agents for the town's conservation fund*

Line 75 delete *putting in*

Line 104 change *is a* to *as a*, delete *and*

Line 106 change *been moving* to *moved*, add *to develop* after *quicker*

Line 117 change *looses* to *loses*

Line 118 delete *ended then*,

Line 133 delete *by*

185 Line 137 change *refer* to *defer*

186 Line 139 *within* is one word

187

188 **MOTION by Ms Mooney** to approve the amended minutes of *May 9, 2012*

189 **SECOND by Mr. Morin**

190 **VOTE 6-Aye. 0- Opposed 1- Abstained MOTION PASSED**

191

192 **Other Business**

193

194 Chair Stockus called for any other business. There was none.

195

196 **MOTION by Mr. Grotenhuis** to adjourn at 7:56pm.

197 **SECOND by Mr. Rafter**

198 **VOTE 6-Aye. 0- Opposed 0- Abstained MOTION PASSED**

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200 **Respectfully Submitted,**

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204

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

206

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