

**Nottingham Planning Board
September 11 2013**

Members Present: Arthur Stockus; Chair, Hal Rafter, BOS Representative; John Morin, Dirk Grotenhuis, Eduard Viel, Gary Anderson, Alternate; Susan Mooney; Secretary, Robert “Buzz” Davies; Alternate

Members Absent: Troy Osgood: Vice Chair

Others Present: Paul Colby; Building Inspector/Code Administrator, Kenneth Cardillo; applicant, Sam Demeritt; NCC Chair, Seth Peters; applicant, Charlie Brown; Town Administrator, Betsy Saunders; abutter, Christian Smith; Beals Associates, Joseph Falzone; applicant- Harbor Street Limited, Scott Gove, Raelene Shippee Rice, Cheryl Smith; NCC, Kristen Lamb; NCC, Peter Landry, JoAnna Arendarczyk; Land Use Clerk

Chair Arthur Stockus called the meeting to order at 7:04 pm

Introductions were completed at 7:06

Mr. Davies Seated for Mr. Osgood

PUBLIC MEETINGS/HEARINGS:

Case #P13-05-SUB – Kenneth& Maryilyn Cardillo: Map 12 lots 17&18, property located on Kennard Road and Winter Street. Proposed lot line adjustment/subdivision creating one new lot of record.

Mr. Colby stated application is complete and ready for acceptance.

Motion: Made by Ms. Mooney to accept the application as complete for Case # P13-05-SUB.

Chairman clarifies that this acceptance is based on bounds.

Second: by Mr. Morin.

Vote: 7-0 motion passed

Chairman Stockus opened the Public Hearing for Case # P13-05-SUB

Mr. Landry presented the overlay of the plan.

It is a forty acre parcel with a 2,200’ of frontage on Kennard Road.

Chairman Stockus requested Mr. Landry to speak on concept not details.

Mr. Landry obliged.

Lots 17&18 is a “Lot line adjustment slash subdivision.”

Each lot will be well over ten acres, most are twelve acres.

Proposed house on Lot 17.

Middle lot has existing house with new lot line around it.

Lot 18-1 there is a waiver form for review for lack of topography.

Each lot will have 200’ of frontage and meets the minimum lot area.

4th parcel labeled Parcel A- Mr. Cardillo claims this piece. It is not part of 17, 18 or 18-1.

Chair asks if there are any questions from the Board.

Mrs. Mooney: What is the Status of the other tiny parcels? Parcels B, C, D & E

Mr. Landry: Parcel B is part of Lot 17, the area between the stone walls, labeled as “Winter Street”, this road’s status as private or public road is truly unknown. “Evidence from the town is lacking of a discontinuance”

47 Letters from abutters' state it is classified as a private way so it isn't maintained or
48 plowed.
49 Info will be on Plan to note the access rights of the people to the Southwest of the lots.
50 Mrs. Mooney: Parcel C, D, E?
51 Mr. Landry: C, D is a neighbor who Ken is allowing the use the land. A shed is there.
52 Parcel E, is thought to be Ken's land. It is all wet. Barbed wire all over it. Not going to
53 fight the issue, Landry thinks it is Ken's land. Evidence is not available.
54 Mrs. Mooney: What is the adjusted Lot line?
55 Mrs. Betsy Saunders: Abutter. Mrs. Saunders has no problems with the plan. There is a
56 deed restriction. Indicates there should be only three lots of each size and never more
57 than three houses, presumably one on each piece. She feels this it should be noted on
58 plan. The original farm house is one of the three pieces. That is all that is allowed on the
59 land and not to be subdivided further in the future. It appears the envelope on 18 that has
60 the current farm house was there in case the house was destroyed for some reason and
61 then the owner would be allowed to build there. That should be clarified as well.
62 Mr. Colby stated that the Deed is referenced on the Plan. And Lot 18 can be subdivided
63 once with a maximum of three houses. Concerning the 200x200 block the Zoning
64 ordinances require them to show that when they subdivide they can get that on a lot even
65 if there is an existing house. They can't re-subdivide that lot- the deed restricted it. It
66 shows that if something happens to the house then they still have buildable land to re-
67 build.
68 Mrs. Saunders states that she understands it as a nonprofessional but doesn't feel it is
69 clearly noted on the Plan that another house isn't going to be put there aside from the
70 reason stated for re-building purposes only.
71 Mr. Colby: The plan meets regulations as written.
72 Mrs. Saunders: Agrees that the deed is referenced but that it should be included else
73 where to make it clear that there is an important restriction that the land can't be further
74 subdivided.
75 Mr. Joe Falzone speaks as the major abutter to the subdivision and owns seventy-four
76 acres that surround it. He has no oppositions to the plan. He has an insured title from a
77 title insurance company that he has rights over Winter Street.
78 Mr. Falzone explained further that the town sent out notices in 2005 that the town would
79 no longer maintain Winter Street and that it is indeed a private road.
80 Mr. Falzone then asked about the lot in question that Mr. Cardillo thought he owned and
81 wanted more clarification.
82 Mr. Landry: explained on plan that it is Parcel E.
83 Mr. Falzone stated that he has no objections.
84 Chair asks if anyone wants to speak in opposition or at all.
85 None in opposition.
86 Public hearing closed at 7:25pm
87 Chair states that we will move on to consideration of the application for approval.
88 Chair asks Mr. Colby if he wanted to add anything.
89 Mr. Colby states that the plan meets requirements.
90 Mrs. Saunders' desire to have extra note is not necessary it is on deeds. That is up to the
91 Board to decide.
92 Chair asks if there is Mr. Landry if he wants to add anything

93 Mr. Landry states that if Board desires they will place further reference to the deed on the
94 plan. Note is on plan that deed is in file.
95 Mr. Colby states that we have protection in our ordinances that if anyone come in for a
96 land use change on this property has to submit deeds, the staff then reads them, the
97 restrictions would be noted from there.
98 Mrs. Mooney recommended to have under notes as 'Number 11; Please See Deed for
99 Deed Restrictions to Existing Properties' no other details necessary.
100 Mr. Landry and Mr. Cardillo agree that would be acceptable.
101 Chair asks board if that satisfies them.
102 Mrs. Saunders verified that it would state that there are restrictions in the deed.
103 Mr. Colby stated yes that is what was decided on.
104 Mr. Viel asked to have the lot line that is to be abandoned explained.
105 Mr. Landry explained it as tract one and tract two of the deed. They are abandoning the
106 existing title line and adjusting it. This is notated for attorney purposes.
107 Mr. Davies asks what the adjusted lot line in the upper right hand corner means.
108 Mr. Landry explains further.
109 Mr. Davies asked for further clarification on the plan.
110 Mr. Landry clarified with further references to the steps in the plan.
111 Mr. Landry: States that he will lighten up the line labeled L45-L46 on the new plan.
112 Mr. Grotenhuis asks if Lot 17 once subdivided will have a private way between the two
113 lots. Is that an issue with private easement?
114 Mr. Landry states that based on the little evidence from town that if it is private we will
115 still have a private easement going through Lot 17. There was a warrant article issued in
116 March to discontinue any public rights on Winter Street. Mr. Landry is uncertain of the
117 status of that at this time.
118 Mr. Grotenhuis asked if there is access that is currently in use all the way to the South
119 past Lot 17.
120 Mr. Landry states that yes it does continue past Lot 17 but as for the number of people
121 that use it or have rights to it he does not know.
122 Mr. Colby states that the road is not passable past the existing house driveway.
123 Mr. Davies asked if Lot 17 is proposed to be a buildable lot.
124 Mr. Landry we have a building permit already.
125 Mr. Davies asks where the frontage was for Lot 17.
126 Mr. Landry explained that a process was gone through to sign agreement with town that it
127 is understood that it is not a town road and accepted. It was signed and recorded so that
128 the building permit could be issued to allow him to build on Lot 17.
129 Mr. Rafter stated that the warrant article was put forward it was not voted on at the town
130 meeting. It was pulled back for further research. There is the intention to have the warrant
131 article go forward this coming March to take away the ambiguity regarding the status of
132 Winter Street.
133 Mr. Colby states that our ordinance does allow people to build on a private road and the
134 agreement referred to is a waiver of liability that is registered with the deeds that the town
135 is not liable if issues arise due to it being a private road.
136 Chair asks if there are any further questions.
137 Seeing none the Chair asks for a motion to approve the subdivision with conditions of the
138 bounds and the note addition to the plan referring to the deed restrictions.

139 Motion: Mr. Grotenhuis made a motion to approve the case with the condition to have
 140 note 11 added to the plan and to have the bounds set and certified.
 141 Mr. Colby added that the applicant suggested another note regarding a condition for
 142 future passage to right-a-ways.
 143 Chair asked if there were more questions.
 144 Mr. Davies asked more questions regarding issues that may arise regarding to the private
 145 road.
 146 Mr. Landry then referred to the liability waiver.
 147 Chair: Further questions?
 148 Second: Mrs. Mooney seconds
 149 Vote: 6-0-1 motion passed
 150
 151 **Case #P13-02-SUB-** The Crossings (Maple Ridge)- 154 acre parcel which fronts both
 152 Friar Tuck Lane and Oakridge Road- Map 10 Lot10 Lot 10, Map 9&10 Lots 9&10-
 153 Application for a proposed open space 42 lot subdivision. Property is owned by Harbor
 154 Street Limited Partnership, Brian M. & Jennifer Spagna, Seth F. & Pearl I. Peters.
 155 Continuance Hearing.
 156 Chair opens the continuation.
 157 Introduction from Christian Smith with Beals Associates representing the applicant and
 158 Mr. Joe Falzone from Harbor Street Limited Partnership.
 159 Mr. Smith asks Mr. Colby if there is anything in writing from the Fire Chief.
 160 Mr. Colby states that none is noted.
 161 Mr. Smith states that right now there is verbal agreement with the Fire Chief on the
 162 cistern location and proceeding with the plans regarding the thru road.
 163 Mr. Smith adds that they have completed first round of engineering review. CMA has
 164 not received the response from the review.
 165 Two points to discuss from CMA review:
 166 One: 3% grade vs. 5% grade proposed at the intersection. Are the cul-de-sacs considered
 167 major streets? We assume they are minor streets if so conditions need not apply.
 168 Two: "The intersection with Oak Ridge contains an angle less than ninety degrees.
 169 However it is on the side of a cul-de-sac. Traffic making this turning motion is not likely
 170 the board could reasonably consider this to be complying".
 171 Chair asks Paul to review his letter.
 172 Mr. Colby reviewed his letter dated September 11, 2013, of his comments from his letter
 173 dated July 22, 2013 (Letter in file)
 174 Mr. Falzone: Mentions Conservation Committee's request on September 3rd to meet with
 175 Fire Chief, met last Friday, to discuss cul-de-sac plan. Other ideas from Conservation
 176 Committee like fire alarms in house, fire hydrants, Fire Chief will not change position for
 177 the thru road. This has to be approved first for Conservation funding for lots.
 178 Mr. Falzone asks Mrs. Mooney if she wants to speak further on the Conservation
 179 Committees standing.
 180 Mrs. Mooney mentions their letter requesting the vote be reconsidered.
 181 Mr. Colby states that the letters and e-mail responses are in the binder.
 182 Chair states that the date has passed, under Robert's Rules of Order which would have
 183 been August 28th, 2013. The only way to do this would be to rescind the prior motion.
 184 This would negate the motion for the thru road.

185 Mrs. Mooney mentions a ZBA case that was reconsidered.
 186 Mr. Colby stated that the ZBA has different rules and the Selectman asked for rehearing
 187 not a revoke.
 188 Mrs. Mooney asked question to clarify motion process.
 189 Motion: Mrs. Mooney made a motion to move to have the Board to pass a motion to
 190 rescind the vote for a thru road on August 14th for the newly named Maple Ridge
 191 subdivision.
 192 Second: Mr. Viel
 193 Mrs. Mooney: Reasons for Rescind vote on August 14th for newly named Maple Ridge
 194 subdivision:
 195 *Phase 1 of the project is in the North end of the project and the length of the road is not
 196 a length that should be problem in ending in a cul-de-sac. The Fire Chief's concern was
 197 in the phase 2 of the development, the South end of the project. Mr. Falzone spoke with
 198 the Chief regarding the Conservation Committee's suggestions for the homes.
 199 *Thru road would bisect a large un-fragmented block in a category of between 500-2000
 200 acres, reducing the size of the block and its natural resource value and impacting the little
 201 river water shed to a great degree. It would eliminate the arm with a four general screen
 202 way which extends in that area.
 203 Mrs. Mooney handed out "Master Plan Support for Natural Resource protection on
 204 Maple Ridge Project" with seven items noted:
 205 1. **Vision:** p. vii, Guiding Goals #1 &4; and
 206 2. P. viii, Top 6 strengths, Bullets 3&4.
 207 3. **Chapter 2**, Natural Resources, (prose) p. 2-2 The Larger the unfragmented blocks
 208 the more valuable in terms of wildlife habitat and forest resources. When above
 209 500 acres is a significant resource area. See map 3. This parcel is between 500
 210 and 2000 acres in size and is the second largest category of unfragmented lands;
 211 4. **Chapter 2**, Natural resources, p. 2-11 Objective NR 3 and Action NR 3.2; and
 212 5. p. 2-13 Objective NR 6 and Action NR 6.2;
 213 6. **Chapter 3**, Land Use, pp. 3-10,11,12, Objective LU2 and Action LU2.3
 214 7. And Objective LU 3 and Action 3.6.
 215 Signed: S. Mooney 9/11/13
 216 A thru road requirement could diminish or extinguish to possibility for NRCS
 217 consideration for a grant.
 218 Mr. Anderson reminds the committee that concerns for the cul-de-sac designs were from
 219 both the fire and police chiefs.
 220 Chair Mentions that only Merry Hill Road and Ledge Farm Road cul-de-sacs were the
 221 only ones granted since his time on the board. They were granted due to that being the
 222 only viable option and best use of the property. Other than those we have not strayed
 223 from the Ordinance that there will be no cul-de-sacs except in situations where it is
 224 impractical to do otherwise.
 225 Mr. Rafter asked if fire suppressions were discussed with the Fire Chief.
 226 Mr. Falzone stated that he asked if there was anything that could be done to satisfy him
 227 and even invited the Chief to the hearing. The Chief said that all things point to the best
 228 option being a thru road and he doesn't plan to change his standing.
 229 Mr. Falzone states that he needs the 42 lot plan approved first.
 230 Chair states that per the attorney he can have one or the other not both.

231 Mr. Smith clarified what Mr. Falzone stated, mentioning starting from scratch with a two
 232 cul-de-sac plan.

233 Mr. Colby cited RSA 674:36 IV: Sprinklers or fire suppressions cannot be required by
 234 the Board by law.

235 Mr. Viel: Spoke on his cul-de-sac vs. thru roads research finding advice against relying
 236 solely on Fire and Rescue Departments being the road design planners. Making roads
 237 safest for fire trucks can then result in faster roads and larger roads to cross. Speaking
 238 with community members thru roads tend to be faster vs. Cul-de-sac's being generally
 239 slower. Cul-de-sacs would keep more with our town way of life.

240 Mr. Rafter asked if Mr. Falzone would pursue the easement or abandon it given the thru
 241 road would be approved.

242 Mr. Falzone spoke of his plans to get approvals and maybe come back with a two cul-de-
 243 sac plan. NRCS requires proof on approved lots not imaginary lots. He is willing to go
 244 through the effort and time with support.

245 Chair reminded Mr. Falzone that he can't come back for four years.

246 **Chair: Roll Call vote to rescind the thru road vote:**

247 **Mr. Davies: Yes**

248 **Mr. Grotenhuis: No**

249 **Mrs. Mooney: Yes**

250 **Mr. Morin: No**

251 **Mr. Rafter: No**

252 **Mr. Stockus: No**

253 **Mr. Viel: Yes**

254 **Vote: 3-4** motion failed

255 Chair request Mr. Smith to continue with the CMA response.

256 Mr. Smith continues (response letter is in the file)

257 Mr. Colby states that those are minor issues per CMA.

258 Chair asked if a workshop we be desired.

259 Mr. Colby mentioned the Traffic Impact analysis needs further review.

260 Mr. Grotenhuis responded to Chair that yes more time is desired.

261 Calendar consulted and September 25 was decided upon as a continuation date.

262 **Motion:** Mr. Grotenhuis made a motion to continue **Case #P13-02-SUB-** The Crossings
 263 (Maple Ridge) on September 25th 7:00pm

264 **Second:** by Mr. Morin.

265 **Vote: 7-0** motion passed

266 **Future Meeting Schedule Update:** Mr. Colby mentioned the October 9 2013 workshop
 267 with Jack Mettee on Master Plan/ Zoning.

268 Mrs. Mooney asked about the invites for this.

269 Mr. Colby assured Mrs. Mooney that they would be going out shortly. And attached will
 270 be the items to discuss.

271 **Board of Selectman Update:** Mr. Rafter states that the town has been formally served
 272 with suit by Fairpoint to abate their taxes on poles and equipment for 2012. Many towns
 273 were included in this. The Court date is unknown.

274 A Recycling Committee established to encourage recycling. There are five people on it
 275 including Mr. Anderson.

276 The Board met with the Conservation Commission on easement expenses and estimates
277 for the Kennard property.
278 The Board also discussed the Land Use Change Tax, establishing a cap. Based on looking
279 at the history of the inflows and outflows. \$381,000 in the budget right now.
280 **Motion:** Made by Mrs. Mooney to accept the minutes from August 28, 2013 as amended.
281 **Second:** Made by Mr. Grotenhuis.
282 **Vote: 7-0-0** motion passed
283 Chair mentions that a new Town and City is available in the office.
284 Mr. Colby mentioned that Rocky Hill Road and Ledge Farm road has been paved.
285 Drainage still be worked on. Paving completed last Friday. Building permit given and
286 foundation started.
287 Mr. Viel mentioned the Recycling Committee has its first meeting 7pm tomorrow night.
288 **ADJOURNMENT:** Having no further business,
289 **Motion:** by Mrs. Mooney
290 **Second:** Mr. Viel
291 **Vote: 7-0-0** motion passed
292 Adjourn at 8:29PM
293 Respectfully Submitted,
294 JoAnna Arendarczyk